JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

EXTRA VOLUMES NEW SERIES, No. 23

BRITISH CORPORATION FINANCE 1775-1850

A STUDY OF PREFERENCE SHARES

LONDON: HUMPHREY MILFORD
OXFORD UNIVERSITY PRESS

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BALTIMORE
THE JOHNS HOPKINS PRESS
1936

PRINTED IN THE UNITED STATES OF AMERICA
BY THE LORD BALTIMORE PRESS, BALTIMORE, MD.

PREFACE

The British industrial revolution and early railway age made unprecedented demands upon the available supply of capital. In consequence, the financial devices which corporations were employing proved in many instances inadequate for the task of raising needed funds. Particularly was this true of canal and railway companies which had fallen into financial straits. The preference share offered a solution for their difficulties and thus occupies a place in the early history of corporation finance.

The first half of this study treats briefly several aspects of the corporation movement of the late eighteenth and early nineteenth centuries. It does not purport to be comprehensive, but through emphasis upon a few points attempts to throw into sharper relief the second half of the essay. There the ideas and conditions which produced the preference share are presented together with the changes in the new shares which resulted in developing by 1850 a type of security very similar to present-day preferred stock.

I wish to acknowledge my indebtedness to Professor Jacob H. Hollander, Professor George E. Barnett, Associate Professor William O. Weyforth, and Associate Professor Frederic Chapin Lane. They have given generously of their time to read the manuscript and have offered a number of very stimulating criticisms. To Mr. Lessing Rosenthal, who some years ago established at The Johns Hopkins University a fund for economic research, I am also indebted. A grant from that fund has facilitated the completion of this study.

G. H. E., Jr.

THE JOHNS HOPKINS UNIVERSITY
August, 1936

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CHAPTER I

INTRODUCTION

The rise of joint-stock enterprise, a development which had been seriously retarded by the provisions of "The Bubble Act" and the financial collapse of 1720, was resumed in the last quarter of the eighteenth century. In an effort to curb speculation, Parliament had enacted in 1719 a law to the effect that no group of persons should act or presume to act as a corporation without the sanction of the legislature.[1] A strict enforcement of the statute and more searching parliamentary inquiries into applications for charters followed. The consequent limitation of the use of the corporate form was reinforced by widespread public disapproval of stock speculation. Opposition to companies, however, gave way gradually to the necessities of finance, when soon after 1760 canals and other costly undertakings were started. The reawakened interest in large-scale enterprise was accompanied by a refashioning of law and a revision of corporate structure. At the same time that the law was being modified so as to grant freedom of incorporation and limited liability for shareholders, corporate finance was being altered by the introduction of a new form of security.[2] This was the preference share.[3] The origin of its use in British finance is to be traced to the emergency requirements of joint-stock enterprises in certain new fields

[1] "The Bubble Act," 6 Geo. I c. 18, s. 18.

[2] For discussions of limited liability and freedom of incorporation, see H. A. Shannon, "The Coming of General Limited Liability," *Economic History*, II, 267 ff.; Bishop C. Hunt, "The Joint-Stock Company in England, 1800-1825," *The Journal of Political Economy*, XLIII, 1 ff. and "The Joint-Stock Company in England, 1830-1844," *ibid.*, pp. 331 ff.

[3] In the United States the term preference share has never been widely used; preferred stock has taken its place.

of business activity which became particularly important at this time.

Though the trading companies were the outstanding concerns employing the joint-stock form of organization prior to 1720, this form was also being used in banking, insurance, mining, and the supplying of water to cities.[4] Its use in the latter industries was greatly augmented in the wave of company promotion during the late eighteenth and early nineteenth centuries, and at the same time it was adopted in new fields of enterprise where large aggregations of capital were needed.[5] Preeminent among these were the canals and railways. Many kinds of joint-stock ventures are accordingly available for inquiries concerning the promotion and the general activities of companies. The rising inland transportation corporations, however, must be the chief objects of study in an examination of the development of the preference share, since it was in this field that conditions required a new instrument of finance.

Canal and railway engineering was in the experimental stage. Consequently, construction costs were almost invariably underestimated with the result that partially completed projects were forced to appeal to investors for further funds. In addition to the frequency with which such conditions arose, the financing of transportation companies was complicated by three important factors. A great length of time was required before productive operations were possible. The fixed capital was highly specialized. The undertakings were primarily local in nature. These features, which differentiate the canals and railways from the companies of the pre-Bubble era, gave rise to innova-

[4] William Robert Scott, *The Constitution and Finance of English, Scottish and Irish Joint-Stock Companies to 1720,* I, 394.

[5] See Henry English, *A Complete View of the Joint Stock Companies, formed during the years 1824 and 1825 . . . . ,* p. 29.

tions in corporation finance which culminated in the use of preference shares.

Whenever capitalists had been forced to wait for a long time before profits could be expected from their ventures, successful promotion had been difficult. In the seventeenth century the colonizing companies had experienced this situation and in most cases had been unable to cope with it. Of the Virginia Company, for example, it has been written:

> Unlike its models, the older joint-stock companies, which found their markets and sources in the eastern world already prepared and immediately available for profit, the Virginia Company had first to create its colony in America before an adequate profit from it could be expected. It fell in the effort to accomplish this result and lost its charter before it could bring into existence a working agricultural and industrial community such as it needed in order to return to its subscribers any earnings on their investment.[6]

Canals and railways, likewise, required time to become productive; and this fact must have been well known to anyone who was only slightly familiar with their beginnings. The Duke of Bridgewater, the pioneer of British canal construction, needed two years to build his first canal from Worsley Mill to Manchester—a distance of about ten miles.[7] His later venture, the canal from Longford Bridge to Runcorn which was designed to connect Manchester and Liverpool, was twenty-eight miles in length and was built in five years.[8] The difficulties incident to the construction of these works were common knowledge, so that anyone subscribing for canal shares ought to have understood that he could expect no immediate profits. The same was true of the railways. The Stockton and Darlington's first twenty-seven miles of road were

[6] Charles M. Andrews, *The Colonial Period of American History*, p. 178.

[7] Samuel Smiles, *Lives of the Engineers*, I, 166-184.

[8] *Ibid.*, p. 222.

opened to the public on September 27, 1825, after about four and one-half years of construction.[9] The Liverpool and Manchester, the second of the early railways, was started in June, 1826; and not until September, 1830, was the thirty-one mile track between the two terminal cities ready for public use.[10]

Canals and railways produced some earnings before the whole works were put into operation, but such receipts as were procured could readily be absorbed in further construction. To induce investors to subscribe to projects which could not in the immediate future earn dividends, interest on all outstanding shares was frequently paid out of capital. Later, under the stress of circumstances, this practice was modified and preference shares developed.

Though the early canals and the first railways were individually smaller than the important joint-stock companies which existed prior to 1720 and accordingly presented less difficulty in financing, this factor was more than counterbalanced by another.[11] The sums invested in the canals and railways were sunk more heavily in specialized goods. Even those enterprises of the trading company epoch which were entangled in the delays of colonizing laid out no such proportion of their capital in specialized goods as did the canals and railways. The ships, which bulked large in the fixed assets of many of the early com-

[9] J. S. Jeans, *Jubilee Memorial of the Railway System. A history of the Stockton and Darlington Railway and a record of its results,* pp. 66-67, 120.

[10] Henry Booth, *An Account of the Liverpool and Manchester Railway . . . . ,* pp. 37, 85; and Smiles, V, 222-223.

[11] The share capital of English companies in existence in 1717 can be found in Scott, I, 394. Compare with these figures data on the Leeds and Liverpool Canal in Joseph Priestley, *Historical Account of the Navigable Rivers, Canals, and Railways, of Great Britain . . . . ,* pp. 391, 394; the Borrowstowness Canal, *ibid.,* p. 82; the Stockton and Darlington Railway, Jeans, p. 300; the Liverpool and Manchester Railway, Booth, pp. 10, 85, 97.

panies, could be used in only a limited number of ways, but they did not need to ply merely one route. Moreover, in many of the trading ventures, opportunities to liquidate a large part of the assets were periodically presented by the completion of a voyage or the loss of ships.[12] There were no comparable situations in the life of a canal or railway. Success lay in the completion and the continuous operation of the works as a canal or railway—a condition which was well understood.[13] This difference between the enterprises of the trading company era and the canal and railway periods had an important bearing upon finance. Once an investor had decided to put his money into a canal or a railway, there was a powerful urge to throw more money into the business if the engineering difficulties proved to be greater than anticipated and the original capital was exhausted. There was little comparable to this in joint-stock finance in the years prior to 1720.

The necessity for further investment in a canal or a railway often came at a time when many other enterprises were bidding for capital. The canal and the railway eras made large demands upon the capital supply of the country. In the advertisement which was printed in 1794 with the Second Addenda to Phillips' treatise on canals, the following passage reflects the opinion of a contemporary observer concerning the total demands of the canals:

> It is worthy of observation, that the great sum of money engaged in this kind of concern, within the last two years, is immense; the capitals allowed to be raised for the uses of these acts, exceeds 5,300,000 l. a most enormous sum! [14]

[12] The history of the East India trade illustrates well the frequent liquidation of assets. Scott, II, 89 ff.

[13] *The Circular to Bankers,* January 24, 1834, p. 219.

[14] J[ohn] Phillips, *A General History of Inland Navigation, foreign and domestic: containing a complete account of the canals already executed in England, with considerations on those projected . . . . ,* Appendix, p. 36.

Samuel Smiles, who lived through the early railway period and for many years thereafter, summed up the same situation and pointed out the parallel in railway finance when he wrote:

> As in the case of the railways at a subsequent period, works which might, without pressure upon the natural resources, easily have been executed if spread over a longer period, were undertaken all at once; and the usual consequences followed, of panic, depreciation, and loss.[15]

Preference shares, thus, owe their existence partly to the specialized character of the canals and railways. Once started there was a tantalizing urge to complete them in an effort to obtain profits. Further investment on the part of the proprietors and the public, however, was difficult to induce in the face of large competitive demands for capital. The preferential features of shares were used as bait to procure the needed sums.

A third factor which contributed to the difficulty of establishing the canals and railways upon a profitable basis was the local nature of these undertakings. Remoteness from the large capital centers forced many of the promoters to raise the original funds in numerous small subscriptions. Many of the subscribers were merchants willing to sacrifice a few pounds to obtain improved transportation facilities; many others must have taken shares in response to a feeling of community obligation. Such investors, more or less unaccustomed to stock purchases, needed an inducement such as a preference dividend to persuade them to contribute more money in the event that the costs of construction exceeded the original capital.

A large number of the early canals were relatively small projects which were designed to extend the market for

[15] Smiles, I, 297. *The Circular to Bankers*, November 13, 1835, p. 132, maintained that the notion was preposterous that railways "costing upwards of twenty millions sterling" could be executed within the ensuing ten years. See also *ibid.*, July 15, 1836, p. 413.

the products of a coal or iron mine, a salt deposit, a granite quarry, or a small manufacturing center. Such were the three-mile Kidwelly Canal which was built to carry coal and lime from the Kymer estate to Carmarthen Bay; [16] the six-mile Droitwich Canal which was constructed to bring coal up to Droitwich and to export salt which was made from the brine springs abounding in the vicinity of that town; [17] the nineteen-mile Aberdeenshire Canal which served for the shipment of great quantities of granite from the quarries along its banks through the port of Aberdeen to London and other parts of the country; [18] and the eight-mile Stroudwater Navigation which was "of infinite advantage to the town of Stroud, and the clothing district in the neighbourhood, by furnishing them with coal at a cheap rate, and conveying their heavy and bulky goods to various markets." [19] Of the twenty-seven canals listed in the 1793 edition of Phillips' treatise on inland navigation, fourteen were more than twenty miles long and several were about one hundred miles in length.[20] But even the two largest canals of that day, the Grand Trunk and the Leeds and Liverpool, seem to have been undertakings of chiefly local appeal.

The Leeds and Liverpool Canal was by the original plan to have been one hundred and nine miles in length.[21] "At that era of canal navigation, when first commenced, it was one of the boldest and most magnificent projects hitherto attempted in Great Britain." [22] Credit is given to Mr. Longbotham, a native of Halifax, for projecting this canal and for organizing a group of gentlemen and landowners

[16] Priestley, p. 365; Phillips, p. 371.
[17] Priestley, pp. 204-205.
[18] *Ibid.*, pp. 2, 4.
[19] *Ibid.*, pp. 608, 606.
[20] Phillips, pp. 369-371.
[21] Priestley, p. 386.
[22] *Ibid.*

of the vicinity to undertake its construction.[23] Local enterprise, thus, supplied the idea for this work and the means to get it started. The Grand Trunk Canal was, likewise, a product of the enterprise and support of those who lived in its vicinity. Among its promoters were Earl Gower—a brother-in-law of the Duke of Bridgewater, known as " The Father of British Inland Navigation "—and the Earl of Stamford. The former had his seat at Trentham, the latter at Enville. These men at an early date conferred with James Brindley, the engineer, as to the feasibility of connecting the rivers Trent and Mersey by a canal. " But those schemes were too extensive and costly to be carried out by the private means of either of those noblemen, or even by both combined. They were, therefore, under the necessity of stirring up the latent enterprise of the landed proprietors in their respective districts, and waiting until they had received a sufficient amount of local support to enable them to act with vigour in carrying their great design into effect." [24] It was not, however, until the completion of the Duke of Bridgewater's canal that the desired support for the Grand Trunk project was obtained from the salt producers of Cheshire and the earthenware manufacturers of Staffordshire. As a result of the cooperation of business men who lived in the vicinity of the proposed canal, a number of persons were added to the promoting group—a most important accession being Josiah Wedgwood.[25] Thus, the Grand Trunk Canal, which was ninety-three miles in length and was described as " a great national undertaking," [26] might well be called a local enterprise.

[23] *Ibid.*, pp. 385-386; also Phillips, pp. 245-246.

[24] Smiles, I, 203. For other references to Earl Gower's part in the promotion of the Grand Trunk Canal, see *ibid.*, pp. 154, 167, 215, 259, 260, 262.

[25] For some references to Wedgwood's activity on behalf of the canal, see *ibid.*, pp. 257, 259, 260n., 262, 265.

[26] Priestley, pp. 646, 647.

A careful reading of the 1793 edition of Phillips' treatise on canals reveals only a single instance in which it is clear that persons not locally interested in a canal were responsible for its beginning. This was the project to join the Thames and Severn Rivers, of which Phillips wrote: " Mr. Robert Whitworth, that able and successful engineer in works of this kind, was employed in 1782, at the desire of several opulent private persons, chiefly merchants of London (not the corporation), who had no local interest in either of the counties of Wilts or Gloucester, through which the canal passes." [27]

The first railways were in the main likewise of a local character. Until the early 'thirties there were few railways of a length of thirty miles or more,[28] and even these were as a rule merely local undertakings. The Stockton and Darlington Railway, thirty-seven miles in length,[29] was promoted primarily by Edward Pease, a resident of Darlington, and the money for the project was supplied by many of his friends and relatives.[30] The Liverpool and Manchester Railway, another important early project, was also locally promoted and financed. Joseph Sandars, a Liverpool merchant, and William James, a land-agent, were among the first to urge and to press for the construction of this road. The former had suffered in his business because of the insufficiency of existing communications. The latter learned of the scheme while surveying in the neighborhood of Liverpool and became interested in the

[27] Phillips, p. 227.

[28] John Francis, *A History of the English Railway; Its Social Relations and Revelations 1820-1845* (I, 57 ff. and II, 19 ff.) contains practically complete tables of early railways with their lengths.

[29] Frederick S. Williams, *Our Iron Roads: Their History, Construction, and Social Influences,* p. 20. Francis, I, 62, gives the length, including branches, as forty miles.

[30] Smiles, V, 125; *The Diaries of Edward Pease* (Sir Alfred E. Pease, editor), pp. 83, 84, 89; Jeans, pp. 274-275, 293-295, but compare p. 296.

road as one of its surveyors. He was at a prior date a man of wealth and a tramroad promoter in the country around Birmingham; possibly he saw in the Liverpool and Manchester a means for rebuilding his fortune.[31]

The local character of the railways seems to have been dominant until about 1844. At that time George Stephenson, the great railway engineer, was urging the men of Yorkshire " to stick together and promote communication in their own neighbourhood,—not to go abroad with their speculations." [32] There is no doubt that prior to this date there had been a number of departures from local promotion, finance, and control. This was particularly true of the largest railway lines which derived much of their support from Liverpool and the manufacturing districts of the north of England.[33] To a lesser degree it was true of many smaller projects which lay outside this area. Local promotion and finance, however, were the mainstays of the transportation industry until the listing of shares on the London Stock Exchange and the entry of London capitalists into this field of enterprise.

[31] Smiles, V, 147, 149, 150, 154. See also Francis, I, 86, 92-93; Booth, pp. 3, 9.

[32] Smiles, V, 290-291. *The Circular to Bankers,* October 18, 1844, p. 135, stated that the formerly unspeculative people of the West Riding of Yorkshire were then among the greatest speculators and that the Liverpool share market would be inactive without them.

[33] *The Railway Magazine; and Steam Navigation Journal,* May, 1839, pp. 209, 210. This periodical which appeared before and after this date under similar titles will henceforth be referred to as *Herapath's Railway Magazine,* the title which was usual in contemporary writings.

Compare *The Circular to Bankers,* April 13, 1838, p. 323; March 10, 1837, pp. 273-274; and also Smiles, V, 231, 232. The manufacturing districts supplied much of the capital for the early railways and canals, but it must be remembered that a great many of these enterprises were built in those localities and thus were local undertakings.

CHAPTER II

Corporation Promotion in the Late Eighteenth and Early Nineteenth Centuries [1]

The promoters of the early canals and railways were for the most part men whose properties or business interests were likely to be benefited by an improvement in transportation facilities. Not only were Earl Gower, the Earl of Stamford, Josiah Wedgwood, Edward Pease, and Joseph Sandars of that group, but so were many others. Concerning the relatively short Erewash Canal which was started in 1777, John Phillips wrote: ". . . . it was proposed by the gentlemen and owners of the extensive coal-mines in the neighbourhood of Heanor, Langley, ... &c. to carry their coals to the river Trent, which [mines], for want of a water-conveyance, lay useless both to the owners and to the public." [2] The idea for what became the Goole Canal originated with a few local landholders in 1817. The enterprise was executed, however, by the Aire and Calder Navigation Company, which would probably have suffered severely from competition had another group undertaken the work.[3] A cloth merchant of Leeds with the assistance of his solicitors was the chief promoter of the Leeds and Selby Railway.[4] In the case of the Brandling Junction Railway projected in 1834, it was Messrs. Brandling, lessees of

[1] In this chapter many of the references relate to unincorporated joint-stock companies in various fields of enterprise. Where such material has been cited, there was no reason to believe that the practices of incorporated and unincorporated companies differed.

[2] Phillips, p. 265. Also Priestley, p. 253. For another promotion by mine-owners, see *ibid.*, p. 485.

[3] *Ibid.*, pp. 13-14.

[4] G. G. Macturk, *A History of the Hull Railways*, p. 17.

a coal district, who saw the importance of connecting Newcastle, Shields, and Sunderland.[5]

Engineers also at times supplied suggestions for some of the new canals and railways. Brindley and Rennie were often referred to as "projectors."[6] It is possible that the writers of the time meant simply that these men designed the works, but more than that seems to have been implied. In some instances, moreover, it is clear that the engineer furnished more than his technical ability. For example, R. Whitworth wrote a pamphlet in 1766 which contained a complete plan for a canal to connect Bristol, Liverpool, and Hull.[7] It gave a detailed description of the way the project should be presented to the public, the meetings which should be held, the resolutions which these gatherings should pass, and related information.

Engineers appear to have been almost the only ones among the promoters of the early canals and railways who expected to derive their profits from the construction or the operation of the undertakings rather than from the effect of improved transportation. With them perhaps might be classed the solicitors, if reliance is to be placed upon the following extract from a letter of December 25, 1829, written by James Locke to William Huskisson, M. P.:

> The late experiments at Liverpool have given rise, to a vast variety of projects, many of them . . . . imagined—all got up in

[5] *The Report of the Committee of investigation of the affairs of the Brandling Junction Railway Company, appointed at a meeting of the Shareholders held the 6th May, 1842,* pp. 3, 4. For another local promotion see Olinthus J[ohn] Vignoles, *Life of Charles Blacker Vignoles . . . . Soldier and Civil Engineer . . . . A Reminiscence of Early Railway History,* p. 139.

[6] See, for example, Priestley, pp. 14, 149, 289, 502. Other less well-known engineers were referred to as projectors. See *ibid.,* p. 226 for Jardine, p. 101 for Leach, and p. 143 for Barnes and Morris.

[7] R. Whitworth, *The Advantages of Inland Navigation; or, Some Observations . . . . to shew that an Inland Navigation may be easily effected between . . . . Bristol, Liverpool and Hull. . . . .*

extreme haste—adopted on little rational principle,—promoted by scheming Attorneys and prepared by young and rash engineers and entered into by people impatient of low interest for their money, quite ready to run the course of 1825 over again.[8]

With the idea for a canal or railway conceived, and perhaps supported by an engineer's preliminary survey, it was necessary to interest others so that the raising of sufficient capital could be assured. Only occasionally did the promoters, alone or with a small group of friends, have resources sufficient to undertake their project. Generally an effort was made to attract outside capital. In that case the first step was a distribution of placards announcing that a prospectus would be submitted to the public. These were posted in various parts of the cities through which the undertaking was to pass,[9] and might also be distributed through a solicitor's office.[10] Then followed a meeting of as many prominent citizens as could be gathered to hear the details of the proposition. If this group was favorably impressed, it would appoint a committee to examine more carefully the proposals and to report to a second general meeting. Since further examinations sometimes involved outlays of money various persons were asked to provide the necessary sum. Subscriptions to the investigation fund sometimes simply entitled the contributors to purchase shares in the undertaking should the project be found feasible; [11] at other times these advances were to be credited to share subscriptions if and when made; [12] and some-

[8] British Museum, Additional MSS., 38,758, f. 76.

[9] For example, Nicholas Wilcox Cundy, *Imperial Ship Canal from London to Portsmouth. Mr. Cundy's reply to anonymous and other authors of malignant abuse and misrepresentation on his projected line . . . . with plan of surveys*, p. 14.

[10] *Ibid.*, p. 7.

[11] *Ibid.*, p. 12.

[12] See the Stockton and Darlington Railway circular issued in 1821, containing the resolutions passed at a meeting held on November 13, 1818, by those interested in the railway. York Museum of the London and North Eastern Railway.

times they were repaid to those who did not take shares.[13]

If the committee of investigation decided that the project should be executed, a second general meeting was called. Should the findings of the committee be approved, the meeting would resolve: that a company be formed with a certain capital divided into a specified number of shares; that subscription books be opened at a certain time and that the deposits (that is, initial payments) on the shares be of a certain amount; that an act of incorporation be sought from Parliament; that particular individuals or firms be appointed engineers, bankers, and solicitors to the company; and finally that certain persons be named a committee of management to carry out the resolutions and run the company until incorporation should have been attained and a board of directors elected to succeed them.[14]

The actual raising of the money was the next step. In many cases the share subscription lists were easily filled. "So favorable an idea was entertained by the citizens of London of the utility of the junction of the Thames to the Severn [by means of a canal], that if its completion had called for a million instead of one hundred and thirty thousand pounds, the fund would have been presently subscribed. The connections of one mercantile house alone subscribed twenty-three thousand pounds, and several others ten thousand pounds each." [15] As the period of intense railway speculation drew near, reports of ridicu-

[13] Phillips, p. 157.

[14] Cundy, pp. 7-12. See also the reverse side of a form letter allotting shares in the South London Milk Co., dated February, 1825. Item 144 in *Prospectuses etc. of Public Companies,* British Museum 8223 e 10. Sometimes a second meeting such as was described above did not take place—the committee of investigation proceeding directly with the organization of the company. See item 163 as to Thames Quay Company in *A Volume Containing Prospectuses of Various Public Companies, etc.,* British Museum 1890 c 6.

[15] Phillips, p. 219.

lous efforts on the part of applicants to get their names upon the subscription books are to be found. Of the opening of the books of the Runcorn Railway in January, 1830, it has been written that:

> . . . . some of the eager applicants who could not get near to sign their names soon enough crept cleverly *under* the table, and emerging between the knees of those who surrounded it thus secured the chance of having their names enrolled as proprietors in the lucky scheme.[16]

Although some companies found it absurdly easy to raise capital, a number must have experienced difficulty since so many projects were launched within a short period. The technique of marketing shares when they were not eagerly absorbed by the public, however, is not very clear. References to the process of placing the shares are infrequent in the records of the period. This is not to be attributed to a lack of difficulties in financing but more likely to the absence of an organized market for the flotation of the securities of new enterprises.[17] No distinct group of individuals devoted themselves primarily to this phase of promotion.

The bankers took a passive rather than an active part in procuring the capital for the early canals and railways. The subscription books of the Stockton and Darlington Railway, for example, were to be opened

> at the several banks in Darlington, Durham, Stockton, Newcastle, Sunderland, Thirsk, York, Richmond, and Whitby, and at the banking houses of Messrs. Barclay, Tritton, & Co., Esdaile & Co., Masterman, Peters & Co., Hoare & Co., Pole, Thornton & Co., Curtis, Robarts & Co., Sikes, Smith & Co., and Glynn & Co., Lon-

[16] Vignoles, p. 140.

[17] *The Circular to Bankers,* January 24, 1834, p. 220, commented upon the lack of a market for the securities—old or new—of the companies engaged in public works. A contrast was drawn between the loans to foreign governments and those to railways, canals, docks, etc.

don, and at such other banking-houses as the Committee of Management shall appoint; . . . .[18]

The mere fact that such offices were used as focal points for subscriptions does not, of course, indicate that the bankers urged their clients to buy shares; in fact, the absence of references to such action suggests the contrary. Moreover, although banking houses were designated as subscription-depots, entirely distinct agents for the sale of shares were announced.[19] They were a heterogeneous group including—among others—sharebrokers,[20] engineers,[21] and manufacturers.[22] The sharebrokers did not play as large a rôle in the raising of funds as might be expected. In 1835 *The Circular to Bankers* commented as follows:

It is a remarkable fact, that the Rail-way system advanced and became established in the public confidence, almost wholly without the assistance of the Stock Exchange. The support afforded to it was derived almost exclusively from the capitalists, and men of thrift and opulence, in the mining and manufacturing districts of the north of England. We will venture to assert, that taking into account all the Rail-ways now in operation—we mean all such as are formed, or are in the course of being formed, for service—in the counties of Northumberland, Cumberland, Durham, Yorkshire, and Lancashire, not one twentieth part of the capital expended upon them was furnished by members of the

[18] The Stockton and Darlington Railway circular issued in 1821, *loc. cit.*

[19] For example, *ibid.*

[20] For example, Richard Dawson. See Macturk, p. 45. For a reference to the employment of "brokers of character" to dispose of Southampton Railway shares, see *The Circular to Bankers,* June 13, 1834, p. 379.

[21] For example, George Stephenson. See Smiles, V, 232.

[22] For example, Josiah Wedgwood. See *ibid.,* I, 277. Robert Arthur Ward, *Notes on Joint-stock Companies,* pp. 24-25, contains the following interesting comment upon a money-raising organization of the early 'sixties: "*Financial Associations* are companies of recent creation, ... a large part of their business is to introduce new joint-stock companies to the public, receiving as a commission paid-up shares in those undertakings."

Stock Exchange or Stock-brokers. When the Birmingham and London Rail-way [incorporated in 1833] was brought out, they participated more largely in this enterprise, as they did in a less degree, in the Grand Junction [incorporated in 1833] which unites that with the Liverpool and Manchester Rail-way. The commencement of these two great lines may be stated as the first occasion when the Stock Exchange people began to take any great interest in this description of property.[23]

Probably the "Stock Exchange people" had so abused their money-raising function in the days of the South Sea Bubble that they were unfit for the task of obtaining capital for the early canals and railways.

While the financiers did not in their professional capacities participate in the flotation of early canal and railway securities they did so as individuals,[24] and by their high standing in their communities lent great support to the schemes. Jonathan Backhouse, head of a well-known and influential Darlington banking firm, worked strenuously as one of the promoters of the Stockton and Darlington Railway to raise capital for that concern.[25] Thomas Richardson, a wealthy bill broker of London, was another who played an important part in collecting the original capital for the same railway. With a number of others, he was asked to form a committee in London to obtain subscriptions.[26] The position of agent for the sale of shares was

[23] *The Circular to Bankers,* November 6, 1835, p. 123.

[24] *Ibid.,* October 25, 1833, p. 114. J. H. Clapham, in *An Economic History of Modern Britain; the Early Railway Age* (p. 389), stated that the London banking community took no active part in railway promotion or direction until 1837, although it had always been willing to accept railway accounts. It is worthy of note that in 1837 George Carr Glynn, an important banker of his time, became chairman of the board of the London and Birmingham Railway. For references to the activities of John Wright, a banker-promoter of about 1840, see *The Circular to Bankers,* November 27, 1840, pp. 221-222.

[25] Jeans, pp. 210, 211.

[26] *Ibid.,* pp. 25, 49, 50. See also the Stockton and Darlington Railway circular issued in 1821, *loc. cit.*

offered to him not because he was a bill broker, but for other reasons. He was a cousin of Edward Pease, the chief promoter; he thought well of the scheme; and he knew persons of means. Other financiers—Samuel Gurney and John Overend—were, like Richardson, on this London committee of the Stockton and Darlington more for personal than vocational reasons.

The members of one vocational group, the solicitors, may have been drawn into the raising of corporate funds by their professional duties.[27] On the reverse side of a letter of May 14, 1821, from Wm. Leatham to Edward Pease, the promoter of the Stockton and Darlington Railway, there are some undated notes above the signature "Jo. Priestley." They are headed "Darlington Railway" and contain the following:

> That the accountant take upon himself the management of Subscriptions—and when filled, prepare & issue the Tickets to the Subscribers for their Shares—N. B. This is frequently done by the Law-Agent.[28]

In the testimony accompanying the *First Report of the Select Committee on Joint Stock Companies,* March, 1844, there can be found a solicitor's description of the efforts which he had made to raise capital for a number of new projects.[29]

[27] In addition to the references to the work of solicitors given in the text, the activities of Mewburn—the solicitor of the Stockton and Darlington Railway—should perhaps be cited. See Jeans, pp. 196, 258. See also reference to Hamilton in *The Circular to Bankers,* November 27, 1840, p. 223.

[28] This item is to be found among *Letters and other documents respecting the building of the Stockton and Darlington Railway 1821-22* in the York Museum of the London and North Eastern Railway Company. Note that it was in 1821 that the Stockton and Darlington received its act of incorporation.

[29] *Parliamentary Papers* 1844 (119) VII, *First Report of the Select Committee on Joint Stock Companies; together with the Minutes of Evidence (Taken in 1841 and 1843) Appendix and Index,* March, 1844, pp. 163, 164.

Whenever those who had been interested in a company through placards and meetings could not be expected to fill its subscription list readily, the first solicitation of funds—whether made by bankers, attorneys, merchants, or others—often took the form of an appeal to a selected group.[30] The following letter, which is suggestive of the high-pressure salesmanship of 1928-29, belonged to this stage of the promotion. Communications of this sort were doubtless confined to the more speculative enterprises, but the exhibit is none the less interesting.

Sir.

At the request of the Suggestors of & friends to the proposed General Gas Light Company, we have the honor to enclose you a printed prospectus.

They are determined NOT to open the Book of Deposits at Messrs. Jones Loyd & Co. nor to circulate the prospectus nor to advertise or to adopt any other public announcement until they have learnt from *you* either thru' us or thru' one of the Gentlemen whose names you will find at the close of the prospectus, whether you & a few other highly respectable Individuals to whom we have also thus applied, will support the measure by placing your & their names *at once* on the Books of Messrs. Jones Loyd & Co. for one or more shares when they have determined upon opening the Books.

To assist your Determination we beg to subjoin the following facts as to other local Gas Companies.

	Sell at	and pay an annual Div. per hundred
1. The City Gas Light Company's £100 shares sell at . .	£128	£6.16.0

[11 other illustrations were then given]

[30] *Ibid.*, p. 178. For a form letter used in private solicitation of investors see item 83 as to the London Collier & Coal Company in *A Volume Containing Prospectuses of Joint-stock Companies*, British Museum 1881 b 23.

We particularly request the favor of your Reply on or before WEDNESDAY 21st & which we do because several Towns are now willing to be lighted when the Company is established.

We remain

Sir,

. . . .

WILKS V. GRIFFITH.

36 New Broad Street
Nov. 14th. 1823.[31]

The General Gas Light Company was, according to its prospectus, organized to supply gas to "any place" desiring it;[32] and the signer of the letter was in all probability either a solicitor or in a solicitor's office.[33]

When those who undertook to raise the original capital had appealed for support to a selected group of the population and had not completed the subscription lists, they tried their project upon the general public. Prospects were sought through advertisements and through public meetings which sometimes were conducted at widely scattered points.[34] The clerk of the Thames Tunnel wrote in 1828 to a shareholder—Thomas Jevons of Liverpool—as follows:

In reference to our *first* appeal to the Public, I had it in contemplation to propose to the Directors that I should visit every principal City [and] Town in England, Scotland & Ireland, to

[31] A letter to Sir Edmund Autrobus, Bart., dated November 14, 1823, in *A Volume Containing Prospectuses of Various Public Companies, etc.*, British Museum 1890 c 6, item 99.

[32] *Ibid.*, item 98.

[33] See *Clarke's New Law List* . . . . , p. 78.

[34] The Report of the Provisional Committee of the Bristol General Banking Company (February 20, 1832) gives an account of strenuous but unsuccessful efforts to raise money. Item 21 in *A Volume Containing Prospectuses of Various Public Companies, etc.*, British Museum 1890 c 6. In the promotion of the National Bank of London solicitors in thirty-seven towns and cities widely scattered throughout England were authorized to receive applications for shares. *The Circular to Bankers,* March 4, 1831, p. 263.

solicit aid to our work, but when I calculated the time which would be occupied in doing this, and also other objections and also the chances of failure, I abandoned the idea. . . . .[35]

The wide geographical dispersion of the shares of contemporary enterprises, which often accompanied concentration of ownership in the vicinity of the site of each project, was probably in no small part due to such activities.[36]

The applications for shares which were procured without solicitation were subjected to some degree of inspection. This was highly desirable inasmuch as the early shares were not fully paid but subject to assessments. In the early nineteenth century the professional canal speculator was apparently one whom it was advantageous to keep off the subscription books. Of this person Sutcliffe wrote in 1816:

> The canal speculator, who subscribes only to gain by selling his shares, I consider little better than a swindler; for all schemes in his estimation are extremely good, and he will ride from one county to another, to become a subscriber to the most ineligible plan, with no other view than that of selling his shares.
>
> The public are little aware of the mischief which these men have done to the community; for subscribers to canals should be men of real property, who subscribe from no other motive but that of supporting the scheme; it is lamentable to see how many of these have been misled by the canal speculator.[37]

Though careful scrutiny of the applicants for shares may have been made in the early corporate promotions, the examination in the 'forties was merely a formality. In 1845

[35] *A collection of miscellaneous documents relating to the Thames Tunnel comprising the Acts of Parliament, reports, views, manuscript letters, etc.*, British Museum 8776 g 24.

[36] The geographical distribution of shares is discussed in ch. iii. The canal speculator, cited below, may also have played a part in this dispersion of shares.

[37] John Sutcliffe, *A Treatise on Canals and Reservoirs, and the best mode of designing and executing them; . . . .*, p. 227.

it was written concerning persons applying to directors for shares in railway projects that each must give " some party of credit in the city who can speak to his respectability," and that this " referee " is generally visited by some servant of the company or by its solicitor and asked

> whether he knows the writer and believes him to be responsible for the amount of the deposit—more minute details are very rarely asked; and, as the referee is of course not answerable for any defalcation of the applicant, this practice, intended as a sanatory precaution, has become little more than a matter of form.[38]

About this same time it was testified that a respectable handwriting was sufficient to warrant the acceptance of an application for shares.[39]

A letter of allotment was sent to the applicant for shares as soon as he was accepted by the committee of management, the directors, or properly authorized persons. This notified him that he had been awarded a certain number of shares upon condition that he pay to the company's bankers on or before a specified date the required deposit—often about one pound per share.[40] Such letters could sometimes be sold upon the Exchange; [41] in other cases subscriptions were not transferable until an act of incorporation had been procured.[42]

[38] *The Railway Investment Guide. How to make money by railway shares; being a series of hints and advice to parties speculating . . . .*, by One of the Initiated, p. 11.

[39] *Parliamentary Papers* 1844 (119) VII, p. 164. For some additional material on the point raised in this paragraph, see item 21 relating to the Bristol General Banking Company in *A Volume Containing Prospectuses of Various Public Companies, etc.*, British Museum 1890 c 6.

[40] For the form of these allotment letters, see item 144 as to South London Milk Company in *Prospectuses etc. of Public Companies,* British Museum 8223 e 10.

[41] *The Railway Investment Guide,* p. 11.

[42] The prospectus of the Edinburgh and Leith Water Company, Edinburgh, November 12, 1825.

When the holder of a letter of allotment paid his deposit he was required to sign the deed of covenant, or parliamentary deed. This document provided that the company should have a specified capital divided into a certain number of shares; that particular individuals should comprise a board to act for the subscribers prior to the date of incorporation; that the signers should participate in profits and losses in proportion to their subscriptions; and finally, that the proprietors should pay the calls and abide by the rules and regulations of the company.[43] When the investor signed this deed, he received a certificate called scrip.[44] It was usually readily salable at a premium, since the one who signed the deed was subject to unlimited liability prior to incorporation and in any event he could be held for the par value of his subscription.[45] A subsequent holder, in case he did not register the transfer of scrip and thus assume the liabilities of his predecessor, could take up the shares should all go well with the company, or could escape financial responsibility if the promotion did not seem likely to be profitable.[46]

[43] For a deed of covenant to be signed by promoters prior to an application to Parliament for an act of incorporation, see item 36, relating to the British Herring Fishing Company, *A Volume Containing Prospectuses of Various Public Companies, etc.*, British Museum 1890 c 6.

[44] *The Railway Investment Guide*, p. 11. Also *Parliamentary Papers* 1844 (119) VII, p. 169.

[45] George Cochrane, in *The Way to make Railroad shares popular*, set forth a scheme under which liability prior to incorporation could be limited in fact to the deposits paid on shares. The provisional committeemen, that is, those charged with the management of the company prior to the receipt of its charter, were to be given a substantial block of shares in return for which they were to indemnify the shareholders against further liability. Needless to say, the committeemen were to be financially responsible persons.

[46] *Parliamentary Papers* 1844 (119) VII, p. 169. Also *A short and sure guide to permanent investments in railways*. By A Successful Operator, pp. 18, 19.

After shares had been subscribed to the full extent of the estimated costs or close to that amount,[47] and after deposits on subscriptions had been paid and scrip issued, several additional steps were necessary to complete the promotion.[48] The committee of management had to obtain an act of incorporation from Parliament. According to the parliamentary and law expenditure accounts of the railways, this was an expensive process. The particular disbursements required were numerous and of a varied character. One writer of 1850 enumerated the following as included in the term "parliamentary expenses": charges for journeys to London of many solicitors and their followers with their expenses during the progress of the proceedings in Parliament; similar charges for company officers; the cost of innumerable briefs and copies of documents delivered to counsel; fees to counsel; sums paid to witnesses; parliamentary agents' bills; shorthand writers' charges; the fees of both Houses of Parliament; and, sometimes, engineering expenses.[49]

About the middle of the nineteenth century, the cost of this phase of incorporation was considered excessive by many persons. This is clear from a reading of contemporary pamphlets, books, and parliamentary investigations.[50] A single quotation will give sufficiently well the

[47] Priestley, pp. 75, 80, 96, 98, 105.

[48] For an illustration of the process of abandoning a project because of inability to raise sufficient capital, see item 21 as to Bristol General Banking Company in *A Volume Containing Prospectuses of Various Public Companies, etc.,* British Museum 1890 c 6.

[49] Peter Isaac MacPherson, *The law expenditure of railway companies considered with a view to its speedy and effectual reduction,* pp. 12, 13.

[50] *Ibid.;* R. M. Martin, *Railways—Past, Present, & Prospective,* p. 32; Williams, p. 92; *Parliamentary Papers* 1847 (235) XII, *Second Report from the Select Committee on Private Bills; Parliamentary Papers* 1847 (705) XII, *Third Report from the Select Committee on Private Bills, together with the Minutes of Evidence, Appendix, and Index.*

reaction of most of the persons who commented upon the size of this budgetary item.

It appears by the report of a meeting of Shareholders of the 'Liverpool, Manchester, and Newcastle Junction Railway', held at the London Tavern, on the 15th of November, 1848 to dissolve the Association, that 'the Company had already spent £.100,000 *in law expense.*'

Other Railways present similar instances of lavish expenditure. Up to 1841 the Parliamentary expenses and law-charges of the 'Great Western Railway' were at least £.100,000. In some cases from £.50,000 to £.100,000 were spent before a rood of land was bought.[51]

If promoters were successful in their efforts to procure a charter, the only remaining step to complete organization was a general meeting of shareholders for the purpose of selecting directors to replace the provisional committee.

[51] Martin, p. 32. The information on the Liverpool, Manchester, and Newcastle Junction Railway was taken from *The Times* (London), November 16, 1848, p. 5.

CHAPTER III

The Shareholders

The composition of the proprietary is often an important factor in determining the financial policies of a corporation. The necessity for regularity in dividends and the possibility of successfully carrying through a privileged stock subscription are both, for example, dependent upon the nature of the shareholding body. Accordingly in an effort to throw light upon the development of preference shares, lists of shareholders for some of the early canal companies were analyzed. The owners of the inland waterway undertakings were studied because it was in this industry that the usefulness of the preference share was first clearly demonstrated.

The number of persons who subscribed for or held shares in a company was sometimes astonishingly large. In the Ellesmere Canal, for example, there were 1244 shareholders upon incorporation in 1793.[1] This company, it is true, was a large one, as is indicated by the fact that its authorized capital stock was £400,000 and the length of the main canal was about fifty-seven miles.[2] But when the number of shareholders in this concern is compared with the number of shareholders in both earlier and later national companies and in later local business units, the total still seems large. The East India Company had in 1681 only 556 shareholders according to the figures of Sir Josiah Child.[3] The proprietors of the Bank of England

[1] 33 Geo. III c. xci (1793). Two other canals with large proprietaries were Leicestershire and Northamptonshire Union Canal with 577 shareholders, 33 Geo. III c. xcviii (1793); and Leeds and Liverpool Canal, incorporated in 1770, with 529 proprietors, Priestley, p. 391.

[2] Priestley, pp. 237-238.

[3] [Sir Josiah Child], *A Treatise Wherein is Demonstrated 1. That the* East-India *Trade is the most National of all Foreign Trades* . . . . , p. 22.

at a later date, 1839, totaled about 3000.[4] Data on the English joint-stock banks give a picture of institutions of a local character. Out of the eighty-nine such companies existing in 1836, only two had more than one thousand partners.[5]

Another feature of the early canal proprietaries was the large number of persons who held only a few shares. This can be seen in the shareholder lists of the Leeds and Liverpool Canal, which are available for a series of years.[6] From an examination of Table I, and similar tables for 1795 and 1800 which are given in the appendix,[7] it is clear

TABLE I

HOLDINGS OF THE ORIGINAL SHARES OF THE LEEDS AND LIVERPOOL CANAL, JANUARY 1, 1789 [8]

No. of shares held	Persons		Shares	
	No.	Per cent	No.	Per cent
Up to 5 incl.	393	83.8	864	42.0
Over 5- 10 incl.	44	9.4	385	18.7
Over 10- 15 incl.	12	2.6	165	8.0
Over 15- 20 incl.	8	1.7	150	7.3
Over 20- 25 incl.	2	.4	49	2.4
Over 25-103 incl.	10	2.1	446	21.7
All Classes	469	100.0	2,059	100.1

[4] *A List of the Names of all Proprietors of Stock of the Bank of England, qualified to vote at the ensuing election . . . .*

[5] [Richard Page], *Banks and Bankers,* by Daniel Hardcastle, Jun. [*pseud.*], pp. 249-250.

[6] *An Alphabetical List of the Proprietors of the Leeds & Liverpool Canal. January 1, 1789.*

An Alphabetical List of the Proprietors of the Leeds and Liverpool Canal. Corrected to August 1st, 1795.

An Alphabetical List of the Proprietors of the Leeds and Liverpool Canal. January 1, 1800.

[7] Appendix, Tables B and C.

[8] Only the original shares were used in constructing this table because of the impossibility of expressing some of the other types of shares in comparable terms. The use of only original shares, however, does not distort the picture, as is shown by Table A of the Appendix.

that the holders of small blocks of shares were very numerous and in the aggregate controlled a large portion of the total stock. Persons holding up to and including five of the original shares formed on January 1, 1789, eighty-four per cent of the total number of shareholders and held forty-two per cent of the total original shares.

Doubtless too much significance should not be attached to a comparison of this English company of the late eighteenth century with present-day American corporations. Nevertheless, it may be of interest to some readers to set forth similar data on two of our large corporations of today. In one of these organizations—assuming that the few institutions which held shares owned more than one hundred shares each—those shareholders who held one hundred or less shares in 1933 formed eighty-two per cent of the total number of stockholders but held only twenty-one per cent of the voting stock.[9] In another corporation the holders of one hundred or less common shares (a small amount of voting preferred stock was not considered) formed in 1933 eighty-four per cent of the common shareholders and held but ten per cent of the common stock.[10] Ownership was thus more diffused in the early Leeds and Liverpool Canal than in these present-day large American corporations—more diffused in the sense that the small shareholders were as a group entitled to a larger portion of the dividends and that they could jointly exercise more control.

Not only does the Leeds and Liverpool Canal resemble a typical large modern American corporation in that there were many small holdings of shares, but it is similar in that no shareholder had a large portion of the total stock. The largest holding in the Leeds and Liverpool in 1789 com-

[9] National Lead Company, *Annual Report of December 31, 1933.*

[10] The data on this company were given with the understanding that the name of the corporation would not be used.

prised only five per cent of the total original shares.[11] In this connection it should be noted that the parliamentary acts relating to this company prevented any individual from holding more than one hundred shares.[12]

Much the same distribution of shares as that shown above for the great Leeds and Liverpool Canal was found in the small Stroudwater Navigation Company. The latter concern was incorporated in 1776 to construct a canal from the Severn River near Framiload to the Thames and Severn Canal near Stroud. It was only eight miles in length with an original share subscription of but £20,000. The act of incorporation contained the names of the subscribers and the amounts which they had agreed to contribute.[13] These data have been condensed into Table II. The shareholders of this canal who held one and two shares formed 76.1 per cent of the total number of shareholders and they had 47.5 per cent of the total stock. In examining this distribution of shares it should be kept in mind that the

[11] Compare A. A. Berle, Jr. and G. C. Means, *The Modern Corporation and Private Property*, pp. 48, 84-85, and Appendices O and P.

[12] In some canal statutes there was a provision which prohibited any individual from possessing more than a specified small number of shares; in others, there was no limit to share holdings, but there was a restriction upon the number of votes which could be cast by any person. Doubtless the origin of such provisions could be traced to the criticisms which were launched about 1680 against Sir Josiah Child and a few associates on the score that they had acquired control of the stock of the East India Company. In this connection see [Sir Henry Pollexfen], *A Discourse of Trade, Coyn, and Paper Credit: And of Ways and Means to Gain, and Retain Riches*, pp. 101, 103. Extracts from these pages of Pollexfen's work were republished thirty-three years later in *A Collection of Papers Relating to the* East India *Trade: Wherein are shewn The Disadvantages to a Nation, by confining any Trade to a Corporation with a Joint-Stock*, pp. 51, 53. See also Extracts from the Debates of the House of Commons, November 9, 1680, printed in *ibid.*, p. 84. Scott, II, 132, 142, has given the largest holding in the East India Company of 1664 as £4000 (cf. Pollexfen, p. 103) and has answered the charge that by 1680 the stock was so concentrated that a few persons were able to control the voting.

[13] 16 Geo. III c. xxi.

act of incorporation stipulated that no one should hold more than fifteen shares and that the statute required a regressive voting system which provided for

1 vote for the holder of 1 share
2 votes for the holder of 3 shares
3 votes for the holder of 5 shares
5 votes for the holder of 10 or more shares.

There was thus, from the control point of view, great incentive to split the shares into a large number of small

TABLE II

HOLDINGS OF THE SHARES OF THE STROUDWATER NAVIGATION AT ORGANIZATION, 1776

No. of shares	Persons No.	Persons Per cent	Shares No.	Shares Per cent
1	45	48.9	45	22.5
2	25	27.2	50	25.0
3	7	7.6	21	10.5
4	3	3.3	12	6.0
5	7	7.6	35	17.5
6	2	2.2	12	6.0
7	1	1.1	7	3.5
8	1	1.1	8	4.5
9	0	0	0	0
10	1	1.1	10	5.0
All classes	92	100.1	200	100.0

holdings. The frequency with which some family names appeared in the list of proprietors suggests efforts to circumvent the obvious intention of Parliament and to concentrate control. It must be remembered, too, that the holders of a large number of shares in this or any other company could nullify the limitations upon share holding or voting by placing some of their shares in small blocks with trustees who were not members of their families. Fears were expressed concerning the use of this method of

increasing voting power,[14] but the extent of its use cannot be determined—certainly not from shareholder lists.

A third feature of the canal proprietaries was the geographical distribution of the shareholders. The majority of the owners of each undertaking lived in the vicinity of their project. But the marketing methods described in the previous chapter and other factors such as the usual migration of persons often added to this high concentration of ownership a surprisingly wide geographical dispersion of proprietors. The shareholder lists of the Leeds and Liverpool Canal illustrate well these divergent tendencies.[15] Table III brings out the fact that in 1789 those who held the original shares in this canal resided in various parts of England. At the same time Yorkshire and Lancashire, the two counties through which the canal ran, contained 71.0 per cent of the shareholders who held 55.5 per cent of the total original shares.

This high concentration of shareholders and shares in the vicinity of the canal diminished somewhat in subsequent years. By 1800 Yorkshire and Lancashire contained 63.5 per cent of the shareholders who held 45.8 per cent of the total original shares then outstanding. The declining importance of the residents of these counties in the share lists of the canal was not associated with a growing importance of any one single area. Shareholders with London and Middlesex addresses formed a slightly larger per cent

[14] For example, *Address by the Interim Committee of the Edinburgh and Leith Water Company, to the inhabitants of Edinburgh and Leith* [1825], p. 23.

[15] A table showing the geographical distribution of the shares of the Manchester and Leeds Railway in 1838, together with some interesting comments upon the data, is to be found in *The Circular to Bankers,* April 13, 1838, p. 323. Because of the way in which the data are classified the extent of the geographical dispersion of shares is not so clearly shown as it is in Table III relating to the Leeds and Liverpool Canal. The great degree of local interest in this railway, however, is exhibited.

of the total number of shareholders in 1800 than in 1789, but they held a smaller per cent of the total original shares. At the same time many counties gained slightly in both

TABLE III

GEOGRAPHICAL DISTRIBUTION OF THE HOLDERS OF LEEDS AND LIVERPOOL CANAL ORIGINAL SHARES, 1789

Locality	Shareholders No.	Shareholders Per cent	Shares No.	Shares Per cent
Berkshire	1	.2	11	.5
Cambridgeshire	1	.2	4	.2
Cheshire	1	.2	1	.05
Cornwall	1	.2	2	.1
Cumberland	1	.2	5	.2
Derbyshire	6	1.3	11	.5
Devonshire	1	.2	1	.05
Dorsetshire	2	.4	12	.6
Essex	2	.4	20	1.0
Gloucestershire	1	.2	8	.4
Kent	3	.6	16	.8
Lancashire	101	21.5	350	17.0
London and Middlesex	64	13.6	508	24.7
Norfolk	18	3.8	209	10.2
Nottinghamshire	9	1.9	18	.9
Rutlandshire	5	1.1	10	.5
Shropshire	1	.2	1	.05
Somersetshire	3	.6	4	.2
Staffordshire	1	.2	3	.1
Surrey	5	1.1	13	.6
Warwickshire	3	.6	6	.3
Westmoreland	1	.2	5	.2
Wiltshire	1	.2	30	1.5
Worcestershire	2	.4	13	.6
Yorkshire	232	49.5	793	38.5
Unclassified	3	.6	5	.2
Total	469	99.6	2,059	99.95

shareholders and shares, as is shown by a comparison of the share lists of 1789 and 1800. Norfolk, Kent, Essex, and Wiltshire were the most important in this group. Residents of the counties of Cumberland, Devon, and Dorset ap-

peared among the Leeds and Liverpool Canal shareholders of 1789, but are not to be found in the proprietary of either 1795 or 1800; on the other hand, residents of Hampshire, Northamptonshire, Suffolk, Buckinghamshire, Hertfordshire, and Northumberland—none of whom apparently owned shares in this canal in 1789—possessed shares in 1800. Table IV summarizes the most important geographical shifts of the proprietors and their share holdings.

The printed shareholder lists of the Leeds and Liverpool Canal for 1789, 1795, and 1800 also furnish information as to the extent to which the transfer of shares occurred. A comparison of the second list with the first showed that at least 59.9 per cent of the holders of original shares of January 1, 1789, were still holders six and one-half years later on August 1, 1795, and that they held 64.8 per cent of the original shares outstanding on the later date. The figure 59.9 per cent is a conservative estimate, since there were many instances in which there were only slight grounds for believing that a transfer of shares had taken place, but each such case was viewed as a transfer. Moreover, since transfers resulting from death were included except when the shares remained in the hands of executors or administrators, the voluntary transfers were even less than the figures indicate. Similar comparisons of the list for January 1, 1800, with the two others produced more striking results. Eighty-two per cent of the holders of original shares of August 1, 1795, were four years and five months later still shareholders and they possessed 80.8 per cent of the original shares outstanding on January 1, 1800. In a comparison of the lists of January 1, 1789, and January 1, 1800, it was found that at least 46.3 per cent of the holders of original shares of the first date were shareholders at the later date and that they held on January 1, 1800, 49.8 per cent of the original shares then outstanding. The significance of these figures is difficult to estimate be-

TABLE IV

SHOWING FOR THE YEARS 1789, 1795, AND 1800 THE PER CENT OF THE TOTAL LEEDS AND LIVERPOOL CANAL SHAREHOLDERS RESIDING IN SPECIFIED LOCALITIES TOGETHER WITH THE PER CENT OF THE TOTAL ORIGINAL SHARES WHICH THEY HELD [16]

	Yorkshire		Lancashire		London and Middlesex		Norfolk		Kent		Essex		Wiltshire	
	% of total shareholders	% of total original shares	% of total shareholders	% of total original shares	% of total shareholders	% of total original shares	% of total shareholders	% of total original shares	% of total shareholders	% of total original shares	% of total shareholders	% of total original shares	% of total shareholders	% of total original shares
1789	49.5	38.5	21.5	17.0	13.6	24.7	3.8	10.2	.6	.8	.4	1.0	.2	1.5
1795	45.1	31.7	19.1	14.4	17.4	23.9	4.6	15.7	.9	.9	1.3	2.7	.4	4.2
1800	45.4	31.7	18.1	14.1	15.5	19.8	5.3	14.2	1.0	3.1	1.2	3.0	.6	3.7

[16] Tables D and E, in the Appendix, show more completely the geographical distributions for 1795 and 1800.

cause an adequate background against which to project them is lacking. The East India Company in a document of 1692 pointed out that the whole nominal capital of the company changed hands about once in every two years.[17] As compared with this company, therefore, the stability of the proprietary of the Leeds and Liverpool appears very great.

The apparently high degree of stability in stock ownership of the Leeds and Liverpool Canal from 1789 to 1800, it was thought, might have been due in part to the number of women among the shareholders. A reading of the lists

TABLE V

WOMEN WHO HELD ORIGINAL SHARES OF THE LEEDS AND LIVERPOOL CANAL

Date	No. of women	% of total shareholders	No. of original shares held	% of total original shares held
Jan. 1, 1789........	76	16.2	213	10.3
Aug. 1, 1795........	102	22.4	302	13.3
Jan. 1, 1800........	111	22.6	438.04	15.4

gave the impression that many women were shareholders; a tabulation of their number and share holdings produced the figures which are set forth in Table V.[18]

In order to test the hypothesis that the women were responsible for the high degree of stability in stock owner-

[17] [Somers Tracts], *A Collection of Scarce and Valuable Tracts . . . .*, X, 626.

[18] The extent to which women were shareholders in companies has been treated in a number of places. For example, it has been stated that in 1855 of the 4323 shareholders of the London joint-stock banks 1147, or 26.5 per cent, were women. James William Gilbart, *A Practical Treatise on Banking,* II, 447.

The women and clergy were, according to one writer, largely responsible for the large number of bubble subscription lists prior to 1837. These persons "could not, from their want of knowledge of the world, be on their guard against fraud, or gambling speculations in these matters . . . . and were evidently . . . . unable to judge of the probability of a company being remunerative." Francis, II, 2.

ship, a study was made of the extent to which they retained their shares. Of the 76 women who held shares in 1789, 47, which is 62 per cent, owned shares in 1795. The 76 had on the average 2.8 original shares; the 47 on the average 2.72 original shares. In 1800, 33 of the women who had held original shares in 1789, or 43 per cent, were still proprietors. These 33 women had an average holding of 3.96 original shares. In 1795 there were 102 women holding on the average 2.96 original shares; in 1800, 78 of these, or 76 per cent of 102, were still shareholders and they had an average holding of 3.65 original shares. A comparison of the percentages given in this paragraph with those set forth above for the whole shareholding list does not indicate that the women were more responsible than the other shareholders for the small turnover of shares; in fact the reverse is indicated except in the period 1789-1795.

One more attempt was made to determine the type of person who retained his shares. At the present time it is believed that those with small holdings are more likely to keep their shares than those who own larger blocks. This theory was tested by the Leeds and Liverpool Canal figures. The women who were holders of small blocks of shares were omitted from these calculations since the women were almost all in this category and the extent to which they held their shares had already been treated. When the women were deducted from the holders of 5 or less original shares in 1789, there remained 324 shareholders who held 737 original shares. Of these, 184, or 57 per cent, held 567.5 original shares in 1795; and 145, or 45 per cent, held 568.38 original shares in 1800. Finally, shareholders who were not women and who held 5 or less shares in 1795 numbered 274. Of these, 215, or 79 per cent, held 665.51 original shares in 1800. The above percentages, which show the proportion of the shareholders who retained their shares, are lower than the cor-

responding figures just given for the entire shareholder lists. The exhibit, therefore, is not in accordance with what might have been expected as to the greater stability of ownership among small shareholders.

The financial standing of the proprietors of the early public utilities is to some extent disclosed in the acts incorporating the undertakings. There is, thus, on the assumption of a slow turnover of shares, some indication of the possibilities of raising funds from the shareholders should the enterprises be in need of capital in excess of the original subscriptions. At the time of incorporation, 1783, the proprietors of the Borrowstowness Canal who were designated as merchants formed about 27 per cent of the total number of shareholders.[19] If to this group there be added other business men who were more definitely labeled shipmaster, shoremaster, druggist, vinter, wright, fishmonger, carpenter, and brewer, the per cent of the total would be about 44. The professional group—the advocate, the naval officer, the doctor, and the surgeon—formed a small portion of the total, about 6 per cent. The peers, who represented about 14 per cent of the total, were the only other large unified group—the balance being for the most part of undesignated occupation or rank. The Witham Navigation, an English company incorporated in 1812, furnishes an interesting contrast to the Scottish canal just mentioned.[20] In this undertaking the clergy formed 15 per cent of the total, and together with the other professional

[19] 24 Geo. III c. v, preamble (1783).

[20] 52 Geo. III c. cviii, s. 5 (1812). A Scottish railway of 1826, the Edinburgh and Dalkeith, furnishes another illustration. In this instance the peers formed 10 per cent of the total number of shareholders; and the professional group 25 per cent. In the latter class there were 13 law-agents of a certain rank who constituted about three-fifths of the group. Those who were definitely labeled merchants represented less than 6 per cent of the total, but with an undesignated class of 48 per cent this figure cannot be regarded as final. See 7 Geo. IV c. xcviii (1826).

men comprised about 18 per cent.[21] The peers accounted for less than 5 per cent. Those whose names were followed by the title, Esquire, made up 25 per cent of the proprietors. The number of merchants owning shares in this concern cannot be stated, but they could not have formed 50 per cent in view of the figures already given.

Canal proprietaries such as those pictured in this chapter were from many points of view well adapted to the use of a privileged stock subscription should their enterprises need additional funds. There was in each undertaking a large body of shareholders and the holdings were in small blocks. Moreover, the slow turnover of shares suggests that the proprietors were willing to stand by their companies. These three factors were favorable to the sale of additional shares. The geographical distribution of the shareholders, which involved a high degree of local concentration, would seem, however, to have made such a method of raising money difficult or at least to have required that new shares be made particularly attractive. Large amounts of new funds could not have been drawn out of a small area without special inducements. The occupations of the shareholders, also, suggest that new shares had to be made attractive. Many of the clergy and a number of the other professional men must have had very little means; while the active merchants, even though they might have had money, could have used it more advantageously in their own businesses.

[21] Clergymen and doctors were prominent among the proprietors of the Nottingham Canal Company, 32 Geo. III c. c (1792).

CHAPTER IV

Early Emergency Finance

Stockholders who on account of the optimistic forecasts of promoters had subscribed to the shares of the early canals and railways were to see many of their companies in serious financial difficulties soon after they had been launched. Sometimes those who were expected to take shares—for example, landowners through whose properties the works were to extend—refused to subscribe; and sometimes those who had become proprietors were unable to pay their calls.[1] Very often the directors found the prices of land, labor, and materials much higher than the surveyors and engineers had indicated that they would be.[2] Moreover, the difficulties of construction were often underestimated. This was particularly likely to happen in cases where the plans called for tunneling.[3] Unforeseen difficulties of this sort and the increased expenses which they involved did not become fully apparent until the works were fairly well under construction. Thus the managements of many canals and railways found themselves with their enterprises only partially completed but with their funds exhausted; or they may have carried the work to completion only by incurring unauthorized debts.

In order to meet such situations, new methods of raising money were eventually devised, and it is with this phase of corporation finance that the early use and development

[1] For example: Ellesmere Canal, 42 Geo. III c. xx, preamble (1802); Crinan Canal, 39 Geo. III c. lxxi, s. 5 (1799).

[2] For example: Huddersfield Canal, 46 Geo. III c. xii, preamble (1806); Croydon Canal, 51 Geo. III c. xi, preamble (1811); Ashton-under-Lyne Canal, 38 Geo. III c. xxxii. preamble (1798).

[3] For example, Huddersfield Canal, 46 Geo. III c. xii, preamble (1806).

of preference shares is associated. But this type of share did not figure prominently in the efforts of established corporations to raise additional funds until after about 1825. Prior to that date other devices of emergency finance were employed. Accordingly, an account of these methods is desirable for a proper understanding of the circumstances leading to the use of preference shares.

RAISING ADDITIONAL FUNDS BY CALLS

After the formation of the East India Company the practice of using a definite par value for shares had been commonly adopted [4] and companies had often relied upon the issue of additional shares to raise more money as it was needed. But in many of the early canals which were in financial straits the older idea of a fixed number of shares subject to indefinite calls was revived. The history of the Chester Canal is in point.[5] In 1772 the subscribers to this undertaking were incorporated with power to raise among themselves £42,000 in shares of £100 each and if necessary an additional sum of £20,000.[6] In procuring the latter, the act authorized the use of shares, annuities, and mortgages. By 1777 practically the full amount previously authorized had been raised and expended, and the company still needed funds to complete the canal. In consequence parliamentary sanction was given to the request for power to call for an additional sixty per cent from the original stock of £42,000.[7] Though interest was to be given by the company on the sums paid under this call in preference to interest on the original shares, and though

[4] Scott, I, 44, 56, 155.

[5] For other illustrations see Stourbridge Canal, 22 Geo. III c. xiv, preamble and s. 1 (1782); Glamorganshire Canal, 30 Geo. III c. lxxxii, ss. 21, 22 (1790); Hereford and Gloucester Canal, 31 Geo. III c. lxxxix, ss. 36, 37 (1791).

[6] 12 Geo. III c. lxxv (1772).

[7] 17 Geo. III c. lxvii (1777).

there was the added inducement that each original share upon which the call was paid would procure interest upon the sums already paid in preference to any interest that the other original shares might receive, the company was not able to obtain £20,000 upon this call.[8] Accordingly a third act was passed which provided for a call of eighty per cent upon the original stock.[9] Penalties for the non-payment of this call included forfeiture of the shares. Under these acts the canal was completed from Chester to Nantwich about 1780.[10]

This method of raising additional money was not a very popular one with the great mass of shareholders. When it was tried without parliamentary sanction it met with resistance.[11] Shareholders had good cause to dislike additional calls. They often came at embarrassing times. They were frequently made by companies which were in desperate financial straits, and there was thus presented to the stockholder the prospect of sending good money after bad. Moreover, the shares upon which calls were unpaid were not transferable. Accordingly, one who could not, or would not, advance additional calls out of his own pocket faced two courses of action: he could find someone who would buy his shares should he pay his call, then pay the call, and sell as prearranged; or he could take the chance of having the company declare his shares forfeited. In the latter event the company might sell his shares at auction to the highest bidder and, after deducting expenses and unpaid calls, turn over the balance to the forfeiting owner.

The unpleasantness incident to forfeiture produced about 1806 a modification in the procedure. In parliamentary acts relating to the individual companies a section was

[8] 18 Geo. III c. xxi, preamble.

[9] *Ibid.*

[10] Priestley, p. 237.

[11] For example: Grantham Canal, 37 Geo. III c. xxx, preamble (1797); Huddersfield Canal, 39 & 40 Geo. III c. xxxix, preamble (1800).

inserted under which any shareholder who did not desire to pay a call could soon after it was announced declare his intention of not paying it. In such event the company had to sell the shareholder's ownership to the highest bidder at an auction and, after deducting the expenses of the sale and any prior calls, turn over the proceeds to the previous owner.[12] The forfeiting shareholder thus gave up his shares—a contrast to the previous method under which they were taken from him. It is, moreover, probable that the later method was financially less harmful to the shareholder.

Though assessments or calls upon shareholders for sums beyond the par value of their shares were made legal in some cases by Parliament, this could not have been a very popular method of raising additional funds. The method constituted in effect a recall of the parliamentary grant of limited liability. It is true that the acts permitting further calls established new limits to shareholder liability, but there was no assurance that the same process would not be repeated again by those in control of the companies acting with the consent of Parliament. Though perhaps unpopular, this device must have been effective, since often when attempts to borrow money failed resort was had to calls.[13]

RAISING ADDITIONAL FUNDS BY SALE OF SHARES

Almost every act of incorporation contained a section under which additional shares could be issued if money was needed for the completion of the company's project. These shares were to possess the same rights and privileges as the

[12] For example, Bristol Dock Co., 46 Geo. III c. xxxv, s. 3 (1806).

[13] For example: *ibid.;* Foss Navigation, 41 Geo. III c. cxv, preamble (1801); Worcester and Birmingham Canal, 44 Geo. III c. xxxv, preamble (1804).

original subscription, though, of course, due regard was given to any variation in the amounts paid in on the old and the new shares. The sale of such new shares was undoubtedly not difficult when the old ones were at a substantial premium, and perhaps possible when they were at a slight discount. The new shares were generally offered first to the old shareholders,[14] who could either subscribe or sell their rights. The following is an interesting comment of 1802 upon this method of raising money:

It remains for your Committee to explain to the Proprietors the Principle upon which the Sum wanted is intended to be raised, and the Advantages proposed to the Holders of Shares, Half Shares, and other Securities of the Company.

The Principle (having for its Object to raise the Money amongst those only, who, possessing Stock or other Securities, are interested in the Concern) holds out a *Bonus* which every one may avail himself of. The *Bonus* will be in Proportion to the Premium which Stock or Shares shall bear.

Every £100 subscribed, will, as soon as paid up, be converted into a Share of the Joint Stock; every £50 to a Half Share; every £25. . . . .

Those Shares, the next Quarter Day after paid up will be registered; will be entitled, from that Day, to an equal Dividend with the original Shares; will confer the same Privileges; will at any Time be transferable upon Sale or otherwise; and the Subscriptions will be divided most equitably in proportion to the Stock or equalized Securities held by every Individual; that thus divided, it matters not how much Shares are multiplied, because the Benefit of Dividends to each will be the same, whether the Number of Shares, thus proportioned and applied, be greater or less.

But no Stranger can possess himself of any of the new Shares, thus created, except given to him by a privileged Subscriber; or by Purchase and paying to such Subscriber a Premium equal to

[14] For example: Manchester, Bolton, and Bury Canal, 45 Geo. III c. iv, s. 9 (1805); Kennet and Avon Canal, 45 Geo. III c. lxx, s. 26 (1805); Thames and Severn Canal, Priestley, p. 635.

that, for which original Shares and Loan Securities can at the Time be had in the public Market.[15]

Sometimes, in accordance with the principle that no shareholder should possess more than a certain portion of the outstanding shares, the old stockholders were not permitted to subscribe in proportion to their interests.[16]

When offered to the public, these additional shares might be marketed by means of auctions. Some light is thrown on this process by the preamble of a canal act which was passed in 1801. The Kennet and Avon Canal was authorized by Parliament to sell some new shares to existing shareholders and to auction off another block of a thousand shares to the public. The auction was to take place at the Exchange Coffee House, or some suitable place in Bristol, or at Garraway's Coffee House, or some other suitable place in London, to be selected by the committee of management. Not less than twenty nor more than fifty shares were to be sold on any one day, and the sale price was not to be less than sixty pounds per share without the consent of the proprietors, which was to be given at a meeting called specifically to consider the matter.[17]

The illustration of the Kennet and Avon Canal raises the question of the extent to which shares were sold at a discount. Obviously permission from Parliament to sell shares at par would have been valueless to a company, the shares of which could be bought in the market at a figure substantially below par. About 1800, provisions appeared in the canal acts entitling the companies to sell shares " at such Price or Prices, as they [the proprietors] shall think

[15] *Substance of the Report of the General Committee of the Grand Junction Canal Company to the General Assembly of Proprietors on the 2d of November, 1802,* pp. 16 and 17.

[16] For example, Andover Canal, 29 Geo. III c. lxxii, s. 35 (1789).

[17] 41 Geo. III c. xxiii, s. 1 (1801). For another act requiring sale at auction see Ure River Navigation, 1 Geo. IV c. xxxv, s. 46 (1820).

proper and expedient." [18] Such stipulations might be interpreted merely as enabling a company to issue new shares with various par values so as to appeal to a larger group of people, but subsequent events indicate that Parliament was permitting the sale of shares at a discount. This method of raising additional funds for companies in distress became very important, but, as it was an alternate to the use of preference shares, further discussion of the device is reserved for a later chapter. At this point it might simply be mentioned that the shares which sold for less than par were not always placed on the same voting basis as those of the original issue.[19]

RAISING ADDITIONAL FUNDS BY MORTGAGE [20]

To borrow on the credit of the undertaking, assigning either the tolls [21] or the tolls and the navigation,[22] was a power usually accorded the early canals. Such a right appeared in the parliamentary acts concerning canals about 1770 and thereafter was frequently present in statutes relating to transportation companies. The following form, which was prescribed by Parliament for use by the Chesterfield Canal should this company desire to raise money on mortgage, will give an idea of the transaction involved:

By virtue of an Act . . . . , We the Company of Proprietors of the said Navigation, incorporated by and under the said Act, in

[18] Lancaster Canal, 39 & 40 Geo. III c. lvii, s. 3 (1800). See also Grand Junction Canal, 43 Geo. III c. viii, s. 2 (1803); Rochdale Canal, 44 Geo. III c. ix, s. 1 (1804); and many of the acts relating to companies passed in 1804 and thereafter.

[19] For example, Croydon, Merstham, and Godstone Railway, 46 Geo. III c. xciii, s. 3 (1806).

[20] For a brief discussion of this type of security, see Sir William Blackstone, Knt., *Commentaries on the Laws of England in Four Books*, Bk. II, ch. x, s. iii, pp. 161 ff.

[21] For example, Calder and Hebble Canal, 9 Geo. III c. lxxi, s. 26 (1769).

[22] For example, Chesterfield Canal, 11 Geo. III c. lxxv (1771).

consideration of the Sum of *of lawful* British *Money to us in Hand paid by* *, do assign unto the said* *, his Executors, Administrators, and Assigns, all and singular the Tolls, Rates, and Duties, arising by virtue of the said Act, and also the said Navigation, Undertaking, and Premises, and all the Estate, Right, Title, and Interest, of the said Company of Proprietors, of, in, and unto the same, to hold unto the said* *, his Executors, Administrators, and Assigns, until the said Sum of* *, together with Interest for the same, after the Rate of* per Centum per Annum, *shall be repaid.*[23]

It is to be noted that in the above instrument no limitation was placed upon the holder's right to institute suit or upon his right to possession of the assigned property. The instrument itself was silent on these points. In some acts, however, the following provision defining the holder's rights was incorporated:

That so long as the said Interest (*or* Annuity) shall continue to be regularly paid . . . . [as stipulated] . . . . or within Three months of the respective Times hereby appointed for the Payment of the same; it shall not be in the Power of the said *A. B.* . . . . to enter upon Possession of the said Tolls, Rates, Duties, and Premises, or to commence and carry on any Action or Suit for attaining the same. . . . .[24]

The mortgage certificate issued under the seal of the company could usually be made out for any amount which was agreeable to both the company and the purchaser, provided the total issued did not exceed the authorized sum.[25] The owners of the separate instruments issued under any one parliamentary mortgage authorization were

[23] *Ibid.*

[24] Borrowstowness Canal, 24 Geo. III c. v (1783).

[25] Occasionally a parliamentary act contained a provision as to the amounts for which the certificates should be made out. For example, in 9 Geo. IV c. xciii, s. 58 (1828) it was provided that the certificates of the Bristol and Gloucestershire Railway should be in sums of not less than fifty pounds each.

entitled to the same rights and privileges. The earlier issued certificates had no priority over the later. These mortgage securities were transferable, the companies being required to keep books for the registration of the names of the owners.[26] It is interesting to note that each act authorizing the use of the mortgage contained a provision that the mortgage holders could not vote and another provision that mortgage interest had to be paid in preference to dividends or interest on proprietors' shares.

A striking feature of these early mortgage forms is the absence of a date of maturity. It was not until 1794 that anything appeared in the parliamentary statutes on this point. In a canal act of that year it was provided that every mortgage made under that statute should be redeemable by the company upon six calendar months' notice, and also that each should be payable by the company upon like notice from the mortgagee.[27] Such a provision, which occurred frequently thereafter, raises many interesting questions concerning the legal rights of the mortgagees. But these cannot be answered here. From the point of view of the company, it is only too clear that the possibility of being called upon to pay off mortgages at any time upon six months' notice must have been exceedingly disconcerting.

In a number of the acts authorizing the use of the mortgage by canals and railways the procedure in case of default in the payment of interest was set forth. The holder of a security upon which the issuing company had failed to fulfill its interest commitments had the right to apply to the commissioners of the undertaking (persons designated in the act of incorporation whose chief duty was to settle disputes as to the value of the lands required for the construction of the canal or railway) for the appointment of a receiver who was to operate the company for the

[26] For example, Cromford Canal, 29 Geo. III c. lxxiv, s. 44 (1789).

[27] Somersetshire Coal Canal, 34 Geo. III c. lxxxvi, s. 72 (1794).

benefit of the mortgagees. In the event that the commissioners did not act, the holder of the defaulted security could sue for and recover with costs the sums due him.[28]

If the acts of Parliament are an index of what was taking place, British investors were interested not so much in the return of the principal lent as in the receipt of interest. The first mention in a canal statute of the procedure to be followed in case of a default in mortgage principal appeared in 1794.[29] The principal sum was to be recovered in the same manner as unpaid interest, which is outlined above. Such provisions, however, cannot often be found in the parliamentary acts. This is in sharp contrast to the frequency with which the provision relating to interest default appeared. A single but perhaps significant item which throws light upon the attitude toward the repayment of principal is the act 10 Geo. IV c. xxxviii passed in 1829. A section of this statute provided that if the mortgagee demanded payment of the principal and the Duffryn, Llynvi, and Porth Cawl Railway defaulted, then the company should set aside at least one-tenth of the net annual income and apply it to the redemption of the principal due. There was no provision authorizing a suit or the appointment of receivers in the event of a default in the payment of the principal.

The security of the early mortgages was by no means definitely stated. A mortgage might be authorized by one act, and a subsequent statute might entitle purchasers of new mortgage certificates to the same security.[30] The mort-

[28] For example, Loughborough Navigation, 16 Geo. III c. lxv (1776). The justices of the peace replaced the commissioners as the persons to whom to apply for a receivership after about 1825. (Example in 1826, Birmingham and Liverpool Junction Canal, 7 Geo. IV c. xcv, s. 75.) The acts relating to Scottish companies provided for suits in the event of defaults. (Example, Ballochney Railway, 7 Geo. IV c. xlviii, s. 33, 1826).

[29] Leeds and Liverpool Canal, 34 Geo. III c. xciv, s. 98 (1794).

[30] For example, Horncastle Navigation, 39 & 40 Geo. III c. cix, s. 5 (1800).

gages were sometimes thus in fact unlimited-open-end mortgages. When, however, priority over existing mortgages was to be given, parliamentary acts required the consent of the existing mortgage holders.[31] Most second mortgages, though they were not so styled, came as such and not through the creation of prior liens. Second liens on property and income appeared at an early date. The Chester Canal in 1777 was permitted by Parliament to create a mortgage in order to raise money to complete its works.[32] The interest on this issue was payable subsequent to that necessary to satisfy the holders of the mortgage issued under a prior act.

An appraisal of the mortgage as a device for raising capital in emergencies is difficult to make. In some cases, it was reported that money could not be procured on mortgages with the result that calls in excess of the par value of the shares had to be made upon the stockholders;[33] in other cases the use of the mortgage was abandoned and instead additional ordinary shares were issued.[34] On the other hand, acts may be found which authorized the use of the mortgage where apparently the attempt to sell additional shares had failed.[35] A detailed examination of the peculiarities of those instances in which the mortgage was weighed and found wanting or those instances in which it was used in preference to other devices is beyond the scope of this volume; some general statements, however, can be made on the basis of the material already set forth sup-

[31] For example, Ouse River Navigation, 46 Geo. III c. cxxii, s. 9 (1806).

[32] 17 Geo. III c. lxvii (1777).

[33] For example, Bristol Dock Co., 46 Geo. III c. xxxv, preamble (1806).

[34] For example, Dearne and Dove Canal, 39 & 40 Geo. III c. xxxvii, preamble and s. 1 (1800).

[35] For example: Birmingham and Birmingham and Fazeley Canal Navigations, 24 Geo. III c. iv, s. 5 (1784); Coventry Canal, 26 Geo. III c. xxx, preamble and s. 1 (1786); also John Cary, *Inland Navigation; or Select plans of the several navigable canals throughout Great Britain . . . .*, p. 81.

plemented by some additional data. The frequency with which the mortgage was authorized marks this security as being extremely important in corporation finance. The parliamentary acts, moreover, indicate that the mortgage was an emergency instrument rather than a device to be used at will. That is, the acts of incorporation usually authorized companies to issue shares and *if further funds were needed* to issue additional shares or to borrow on mortgage. Of course many supplementary acts permitted the use of the mortgage. Such numerous authorizations would obviously not have been procured had not investors been willing to buy and the companies willing to sell this type of security. It is probable, however, that the mortgage was not always completely satisfactory to either company or investors. Otherwise so many other forms of securities, such as promissory notes and annuities, would not have been in use, and mortgage holders would not have demanded or have had offered to them, as was occasionally the case, the right to convert their holdings into stock.[36] In any event, it is hard to imagine a corporation being satisfied with a large outstanding body of securities payable practically upon demand. The following item, though it relates to bonds, suggests the difficulties which confronted the management in consequence of this feature. Joseph Pease wrote in 1826 to his father, the chief promoter of the Stockton and Darlington Railway, concerning the bonds of that company: "Some of the lenders, to the amount of £30,000, request the repayment of their loan. Nothing has been spared to obtain a change of hands for the company's bonds successfully." [37]

[36] For example: Ellesmere Canal, 42 Geo. III c. xx, s. 4 (1802); Duffryn, Llynvi, and Porth Cawl Railway, Priestley, p. 212.

[37] The letter is reprinted in Jeans, p. 299.

RAISING ADDITIONAL FUNDS BY ANNUITY

The annuity appeared in canal corporation history in 1772 when the Chester Canal Company was authorized to use this device in order to raise additional funds.[38] Subsequent authorizations were not numerous until about 1797. From that date through 1809 Parliament often permitted canal companies to grant annuities. Thereafter they were rarely used. The last change in policy may have been due to a desire to appropriate for the government the use of this type of security, but it is more likely that the companies were not having satisfactory experiences with annuities. Support for such belief is to be found in several facts. The companies which around 1815 procured permission to issue annuities were also given the right to redeem them.[39] Moreover, when around 1825 there was a slight revival in the use of annuities by companies, the statutes which had recently been enacted concerning the government annuities [40] were made to regulate the company securities—the avowed purpose being to prevent "any improvident Grants." [41]

The following annuity form, which was prescribed for use by the Chester Canal Company in 1772, is typical of the early grants; in later ones the rates and tolls alone were pledged as security.

. . . . do grant and assign unto the said *A. B.* his or her Executors, Administrators, and Assigns, One Annuity or clear yearly Rent-charge of   to be issuing and payable from and out of all and singular the Tolls, Rates, and Duties, arising by virtue of the said Act, and also the said Navigation, Undertaking,

[38] 12 Geo. III c. lxxv (1772).

[39] For example, Worcester and Birmingham Canal, 55 Geo. III c. lxvi, s. 54 (1815).

[40] 48 Geo. III c. 142 (1808) amended by 52 Geo. III c. 129 (1812).

[41] For example, Canterbury Navigation and Sandwich Harbour Co., 6 Geo. IV c. clxvi, s. 12 (1825). See also Blackstone, Bk. II, ch. xxx, pp. 481-482.

and Premises, and all the Estate, Right, Title, and Interest of us the said Company of Proprietors, of, in, and to the same, to have, hold, receive, take, and enjoy the said Annuity or clear annual Rent-charge of unto the said *A. B.*, his or her Executors, Administrators, and Assigns, for and during the natural Life or Lives of such Person or Persons as shall be therein for that Purpose named, by two equal Payments in each Year, the Day of and the Day of Given under our Seal the Day of .[42]

These instruments were, like mortgages, transferable; and records of their transfer were to be kept on the books of the company. They could be made out for large or small amounts, provided the aggregate did not exceed the total sum authorized. Annuitants, like mortgagees, were not entitled to vote in proprietors' meetings and annual payments were to be made to them in priority to any shareholders.

The relationship between the rights of annuitants on the one hand and mortgagees and other debt security holders on the other is not very clear. Apparently in the event of a default in an interest or an annuity payment receivers could be appointed who, after having paid certain specified charges and expenses including their own salaries, would divide the remainder *pari passu* so as to pay the interest due on the mortgages and other securities and the arrears of the annuities.[43] In the event of a default in the payment of the principal due on a mortgage or other debt, the receivers likewise would pay the specified charges and expenses including their own salaries, but the remainder

[42] 12 Geo. III c. lxxv (1772). For the distinction between an annuity and a rent charge, see Blackstone, Bk. II, ch. iii, s. ix, p. 39.

In some cases the annuities were for a specific term rather than for life. See, for example, Rochdale Canal, 39 & 40 Geo. III c. xxxvi, s. 7 (1800).

[43] For example, *ibid.*, s. 8.

would be applied *pari passu* toward the payment of " the Principal Monies and Interest due to such Creditor or Creditors on any Mortgages . . . . as shall require Payment thereof, and all Arrears of the said Annuities." [44] That is, the receivers were to operate on the principle of dividing whatever was available among those to whom payment was due without any priorities and in proportion to the sums due them at the time of making the distribution.

RAISING ADDITIONAL FUNDS ON BOND OR BONDS

In 1794 the proprietors of the Warwick and Braunston Canal Company were authorized " to borrow or take up at Interest on their Bond or Bonds " any sum not exceeding £30,000.[45] This method of raising funds was more elaborately described in an act passed two years later. The proprietors of the Dudley Canal had, prior to parliamentary authorization, resolved that their committee of management should either borrow on their own bond or on the bonds of other proprietors who might be willing to become surety for the money thus procured. Parliament was asked to sanction this method of raising money and also to allow the committee or individual proprietors to become surety by way of collateral security to any mortgage of the company. The sums raised on bond or bonds were to be repayable out of any funds which might be raised under any other provision of the existing acts or out of the tolls in preference to any dividend to the proprietors. The persons who gave these bonds were to be " indemnified and saved harmless " by the company against the payment of principal and interest for which the bonds had been given.[46] This personal guarantee of corporate debt was soon abandoned and the bond became merely an obligation

[44] *Ibid.*, s. 9.
[45] 34 Geo. III c. xxxviii, s. 42 (1794).
[46] 37 Geo. III c. xiii, s. 12 (1796).

of the company. For example, in 1816 an act of Parliament provided that the Regents Canal Company could grant to its treasurer or clerk any bond or bonds under the common seal upon the credit of the tolls. The treasurer or the clerk was then to dispose of the bonds by private contract or public sale for the best price that could be obtained.[47]

Bonds were more often than mortgages required by parliamentary act to be issued in specific amounts, for example, in units of one hundred pounds.[48] Another dissimilarity between mortgages and bonds was the convertible feature. Mortgagees were only occasionally given the right to convert their securities into shares, while the bondholders were often given this privilege.[49]

With the disappearance of the personal guarantee from bonds, it is very difficult to distinguish these securities from mortgages or other debt instruments. They appear to have differed in name only. The variation in name, but similarity in fact, among the various debt securities is well brought out in the following, which comes from a statute enacted in 1818:

> And be it further enacted, That all Persons to whom any such Mortgages, Bonds, Promissory Notes, or Debentures shall be made or given, shall be equally entitled one with the other to their Proportions of the said Rates, Tolls, Duties, and Premises, according to the respective Sums in such Mortgages, Bonds, Notes, or Debentures mentioned to be advanced, without any Preference by reason of Priority of any such Mortgage, Bond, Note, or Debenture, *or on any other account whatsoever;* . . . .[50]

[47] 56 Geo. III c. lxxxv, ss. 7, 8 (1816).

[48] For example: *ibid.,* s. 7; Thames and Medway Canal, 58 Geo. III c. xviii, s. 4 (1818).

[49] For example, Crinan Canal, 39 Geo. III c. xxvii, s. 4 (1799).

[50] Gloucester and Berkeley Canal, 58 Geo. III c. xvii, s. 17 (1818). Italics are mine.

RAISING ADDITIONAL FUNDS BY PROMISSORY NOTES

The promissory note appeared in canal finance in 1798 when the Ashton-under-Lyne Canal Company was authorized by Parliament to issue five-year convertible notes.[51] Both the definite maturity date, which was in the near future, and the right to convert into shares were unusual features for debt securities, though both became characteristic of the promissory note.[52] The form of the note was not specified in the parliamentary acts as it was in the case of the mortgage. In consequence, it is more difficult to determine the nature of these notes. Passages such as the following may be found in various acts, but they do not give a clear idea of the nature of the security:

> . . . . and all Persons to whom any such Securities as aforesaid [that is, promissory notes] shall be given shall be equally entitled to a Claim to or Lien on a Proportion of the said Rates, according to the respective Sums mentioned thereby to be advanced and secured, *as if the same were advanced on Mortgages or Assignments of the said Rates,* and without any Preference by reason of the Priority of Date of any such Securities, or on any other Account whatsoever; . . . .[53]

In case of default the promissory note holders, mortgagees, and annuitants were generally to rank equally; and the procedure for the collection of overdue interest and principal was usually as described in the section on mortgages.[54] Two extremes in the nature of the security behind the notes, however, will bring out the extent of the variation in this type of debt instrument. In 1824 the Thames and Medway Canal Company was authorized by

[51] 38 Geo. III c. xxxii, s. 3 (1798).

[52] For example: Huddersfield Canal, 39 & 40 Geo. III c. xxxix, s. 5 (1800); Kennet and Avon Canal, 45 Geo. III c. lxx, s. 3 (1805).

[53] Kennet and Avon Canal, 41 Geo. III c. xxiii, s. 10 (1801). Italics are mine. See also Ellesmere Canal, 42 Geo. III c. xx, s. 2 (1802).

[54] For example: Rochdale Canal, 39 & 40 Geo. III c. xxxvi, ss. 8, 9 (1800); Somersetshire Coal Canal, 42 Geo. III c. xxxv, s. 22 (1802).

Parliament to issue unsecured notes.[55] During the following year the Gloucester and Berkeley Canal, in contrast, was permitted to use promissory notes which were to have a priority over all debts except the loan due the government.[56] These notes were also given priority over the preference shares which had been authorized three years before and which at that time were given the right to dividends " before any Creditor or Creditors of the said Canal Company shall be entitled to receive any Dividend, Interest, or Payment in respect of such other Shares, or in respect of any Mortgage, Bond, Note, Debenture, Annuity, or any other Security or Securities whatsoever, ... except the Payment of the Annual Interest and the Annual Payments or Installments of Principal now due, or hereafter from Time to Time to become due to the Commissioners [that is, officials in charge of government loans]. . . . ." [57]

Of all the debt instruments, the promissory note was perhaps the closest to the early preference shares. The notes were almost always in definite denominations—such as £100, or small units of £25.[58] Moreover, they were regularly convertible into ordinary shares. In one instance the promissory note holders were even allowed to participate with the shares after the notes had received five per cent.[59]

[55] 5 Geo. IV c. cxix, s. 4 (1824).

[56] 6 Geo. IV c. cxiii, ss. 3, 4 (1825).

[57] 3 Geo. IV c. liii, s. 3 (1822).

[58] For example: Gloucester and Berkeley Canal, 6 Geo. IV c. cxiii, s. 3 (1825); Wilts and Berks Canal, 55 Geo. III c. vi, s. 5 (1815).

[59] Rochdale Canal, 46 Geo. III c. xx, s. 10 (1806). Another single instance of a different type which may be significant occurred in 1828. By 9 Geo. IV c. lx, s. 22, the Stockton and Darlington Railway was authorized to raise money in any one of a number of ways which had been previously authorized, *except* by the use of promissory notes.

GOVERNMENT AID

The act 24 Geo. III c. 57 which received the royal assent in 1784 was an early, if not the earliest, authorization for a government loan to a canal company. Under this act certain Scottish estates which had been annexed by the Crown were returned to the heirs or families of the former owners upon the payments of certain stipulated sums. These amounts were to be received by the Court of Exchequer in Scotland and to be lent in part—that is, up to £50,000—to the Forth and Clyde Navigation Company so that the works of this concern could be completed. The money apparently was either to be turned over directly to the company or to be used as collateral by the company in raising other loans. Interest was to be paid on the amount lent or used as collateral until all other debts of the company were paid off. Thereafter dividends could be paid, but the government loan was to participate equally with the stock in disbursements of profits.[60]

Repayments from the Forth and Clyde Navigation furnished the money lent in 1799 to the Crinan Canal. The latter undertaking was in an unfortunate situation due to the fact that the subscribers were unable to meet the calls on their shares.[61] The interest on this loan was five per cent; the amount, £25,000; and the security, the tolls together with the entire undertaking.

Such special acts were followed in 1817 by legislation under which government assistance could be extended to a large number of canals and other public works. At that time Parliament authorized the issue of exchequer bills and the advance of money out of the Consolidated Fund to the amount of £1,500,000 for the carrying on of public works and fisheries in the United Kingdom and the

[60] 24 Geo. III c. 57 (1784).

[61] 39 Geo. III c. lxxi, s. 5 (1799).

employment of the poor in Great Britain.[62] Commissioners were appointed to receive applications from—among others—any company or companies of proprietors engaged in, or anxious to carry on, any works of a public nature, fisheries, and collieries, or mines. Having regard for the employment, particularly of unskilled labor, to be offered by such enterprises and the security afforded by the revenue arising from them, the Commissioners of Exchequer Bills were to lend the money and bills at their disposal. The operation was expected to relieve the depression, and bade fair to prove profitable to the treasury inasmuch as the exchequer bills bore a two and one-half per cent interest rate while the borrowers from the government were to pay five per cent.

For the enactment of this Poor Employment Bill of 1817 there were several precedents which had apparently been attended with fortunate results.[63] In 1793 and again in 1811 the government had gone to the rescue of business in an effort to relieve distress.[64] Exchequer bills had been employed at the earlier dates in much the same way as at the later period. There were, however, several important differences between the first two and the third episodes. In 1793 and in 1811 action was taken to relieve commercial distress, that is, the business enterprises and the banks of the country were the objects of concern. The primary purpose of the 1817 bill was the employment of the poor. A distinct effort was to be made by the Exchequer Bill

[62] 57 Geo. III c. 34 (1817). See also the discussions upon the bill during its passage through Parliament. *The Parliamentary Debates,* 1st Series, XXXV, 1311; XXXVI, 27 ff., 569 ff., 928 ff.

[63] *Ibid.,* XIX, 257-258; XXXVI, 929. The cited assertions as to the character of the results of previous instances of government aid were not disputed.

[64] 33 Geo. III c. 29 (1793) and 51 Geo. III c. 15 (1811). For the parliamentary comment on these measures see *The Parliamentary History of England . . . . ,* XXX, 740 ff. and *The Parliamentary Debates,* 1st Ser., XIX, 249 ff., 327 ff.

Commissioners to assist such projects, existing or contemplated, as would use a large amount of unskilled labor. There is also a striking difference in the amounts of exchequer bills authorized for use. In 1793 the maximum was fixed at £5,000,000 (though only a little in excess of £2,000,000 was used);[65] in 1811, £6,000,000 was the specified limit; and in 1817, £1,500,000. Loans made by the government in 1793 were to be repaid in one year; those of 1811 within nineteen months. Loans under the 1817 act, in contrast, might be made for ten years.

The idea that the government should assist internal improvements was not new in 1817. As pointed out above, it had been previously carried out in canal construction. Assistance, moreover, had been urged for companies engaged in constructing docks. For example, William Tatham had written in 1799: "Government, as they would be benefited by every extension of commerce, might contribute to the undertaking [a dock] by a gift of a redeemable loan, having the premises and rents mortgaged as a security, ..."[66]

From a number of sources the impression is gathered that many of the enterprises which received government aid were in desperate straits when they sought assistance and that these works would never have been completed without government money. Such apparently was the case of the Gloucester and Berkeley Canal. An account prepared by this canal company upon the completion of the works contained the following sentence:

> It ought, however, to be known, that if the aid of the Government, through the medium of the Commissioners of the Exchequer Loan Board, had not been repeatedly extended to this work in

[65] *Ibid.*, p. 332.

[66] W[illiam] Tatham, *The Political Economy of Inland Navigation, Irrigation and Drainage* . . . . , p. 162.

the way it has been, the Proprietors themselves could never have completed it, and it must of necessity have been left unfinished, ...[67]

Another work of a slightly later period which could not have been completed without government aid was the Thames Tunnel—a project to connect the opposite banks of the river at London. In May, 1827, and again in the following January, the Thames broke through the roof of the tunnel and caused much damage. The repairs incident to the second of these catastrophies exhausted the funds of the company engaged in the construction.[68] Debentures were offered to the public, but the issue could not be sold to the desired extent.[69] At this point the clerk of the company wrote to a shareholder in Liverpool:

I almost fear that 'the Public' have been tried enough by us, and that, after all, nothing but Government aid will finish the Tunnel.[70]

After repeated applications, the government agreed to make advances for continuing the work which was resumed in January, 1835.[71]

The conditions under which the Exchequer Loan Commissioners extended assistance to companies engaged in public works and the lenient treatment which they accorded some of their clients are indicated in the history of the Birmingham and Liverpool Junction Canal Company. This concern borrowed £160,000 on November 1, 1831, and £24,600 on July 19, 1832. These sums were to be paid off by yearly installments of £9,400 for the first loan and

[67] *The Gloucester and Berkeley Canal*, p. 4.

[68] *The Thames Tunnel; its Origin, History, and Construction.*

[69] *Documents relating to the Thames Tunnel*, British Museum 8776 c 43.

[70] From a letter to Thomas Jevons of Liverpool. See *A collection of miscellaneous documents relating to the Thames Tunnel comprising the Acts of Parliament, reports, views, manuscript letters, etc.*, British Museum 8776 g 24.

[71] *The Thames Tunnel; its Origin, History, and Construction.*

£1,500 for the second—such amounts being respectively 5.8 per cent and 6.1 per cent of the loans. Interest at the rate of five per cent was payable each year on the principal employed during the year. By February, 1834, the company owed two years' interest on the first loan and one on the second. An indulgent commission had not up to that time taken any vigorous action to collect the debt.[72]

An appraisal of the policy of making government loans to companies prosecuting public works cannot be undertaken here though such a study would be extremely interesting in the light of present-day conditions. It should be noted, however, that on the whole there was surprisingly little criticism of the activities of the Loan Commissioners. Of course, there were some protests from those interested in the development of the turnpikes and the coaching trade. They objected to the fact that the railways, their chief competitors, could procure money from the government at rates which were substantially lower than those which they had to pay to private individuals.[73] The injustice of the situation rankled all the more since they were taxed to raise the funds for the public works loans. Such objections, however, were inevitable; it is to be wondered that attacks were not made on other grounds as well.

[72] W. Cubitt, *A Report on the Financial State of the Birmingham & Liverpool Junction Canal,* Appendix pp. 11, 12. *The Circular to Bankers,* November 4, 1842, p. 170, stated that the Commissioners " in all cases act with forbearance and justice."

[73] Thomas Grahame, *A Treatise on Internal Intercourse and Communication in Civilised States, and particularly in Great Britain,* p. 133, footnote.

CHAPTER V

Alternatives to Preference Shares

As companies in financial distress exercised their various borrowing powers to the limits authorized by their acts of incorporation, and in some cases even beyond these limits; as capitalists encountered difficulties in recovering the money lent upon the security of public works or in getting the interest upon such loans punctually paid; as shareholders, skeptical of the ultimate success of their costly and incomplete works, evidenced reluctance or refusal to meet further calls or to buy additional ordinary shares at par—as these conditions developed, new financial techniques had to be devised. Under amended charters further borrowings might have been effected, but it must be realized that lenders had experienced numerous defaults in principal and interest payments.[1] Moreover, extreme difficulties had arisen in adjusting the security of outstanding loans to the satisfaction of lenders when it had become necessary to procure additional money to prevent the works from remaining in an inefficient or incomplete state.[2] A more important factor, however, which made recourse to further borrowing difficult was the fact that amended charters with liberal borrowing powers were not procured easily since Parliament insisted on a more or less definite ratio of loan to share capital. Early statutes limited loans to about one-third of the sum raised through the sale of shares.[3] In 1836 the relationship was made uniform—so far as one class of future applicants to Parliament was

[1] *The Circular to Bankers,* January 24, 1834, p. 220.

[2] *Ibid.,* March 17, 1837, p. 281.

[3] Frederick Clifford, *A History of Private Bill Legislation,* I, 126-127.

concerned—when the House of Commons adopted a Standing Order which provided that no railway company should be allowed to raise by loan or mortgage a larger sum than one-third of its share capital, and this amount only after one-half of the latter had been paid up.[4]

For most companies in financial difficulties, therefore, an issue of shares of some type was almost inescapable if the company was to act in a legal manner. One aspect of the pressure to sell shares is shown by the following quotation from a report of the remarks of the chairman of the Sheffield and Manchester Railway to a shareholders' meeting in 1842:

With a view to arrive at the point that entitled the Company to borrow money, the calls had been persevered in, and the Directors were certainly disappointed that, in spite of every exertion, and (what they felt as much as any one) the heavy pressure they had been forced to put on many Shareholders, they had not reached the point at which they could borrow. Unless, therefore, by the plan they proposed to-day, or some better plan that might be suggested from the other side of the table, this point could be bridged over, their financial difficulties were such that at present it could not further be proceeded with. Their capital stock was £700,000, and they were empowered to borrow when half of it should have been paid up. When the difference between this sum and what had been paid up last spring was considered, it would appear that the Directors had reasonable ground to believe that such a sum would by this time have been raised as would enable them to borrow. That, however, had not been the case. In round numbers, there had now been £300,000 paid up, and

[4] *Parliamentary Papers* 1836 (511) XXI, *Report from the Select Committee on Railway Bills; together with the Minutes of Evidence taken before them,* p. viii.

The opponents of this Standing Order maintained that local railway enterprises—except the most insignificant ones—could henceforth not be completed unless they interested the share markets of Lancashire and London. *The Circular to Bankers,* August 19, 1836, pp. 34-35.

there remained from £40,000 to £50,000, which must be raised before they could obtain relief by borrowing.[5]

The directors' plan for relief in this case was the reissue of shares which had been forfeited for non-payment of calls, at whatever rate of discount they might find necessary and with a preferential interest not exceeding five per cent per annum for ten years. Such a combination of inducements was by no means unusual when companies were hard pressed for new funds. Many companies under like circumstances, however, evaded the parliamentary restrictions upon borrowing; [6] but those which needed funds and were prevented by regulations from borrowing, and at the same time did not desire to violate the law, had to sell shares as the first step in raising more money.

But even when shares were to be sold there were three distinct choices open to a company which could not get par for its ordinary shares. The first was the sale of shares at a discount. The second was a somewhat cumbersome operation combining the sale of shares possessing some special attraction such as a discount or a preference dividend with the call for only a small amount on each share, and the flotation of a loan with the future calls as security. The third choice was the use of preference shares.

The sale of shares at a discount was frequently employed by enterprises which had been started and had become involved in difficulties. Mr. Prance, of the London Stock Exchange, said in 1840 that "many highly respectable Companies had had recourse to the plan of creating new shares at depreciated prices, first offering those shares as a bonus to the Proprietors." [7] The journals and books of the period bear out his observations.

[5] *Herapath's Railway Magazine,* January 22, 1842, p. 81. See also South Devon Railway, *ibid.,* September 4, 1847, p. 1038.

[6] Clifford, I, 128-129. See also H. W. Elphinstone, *On the Borrowing Powers of Railway Companies,* pp. 4, 5, 7.

[7] Great North of England Railway, *Herapath's Railway Magazine,* March 14, 1840, p. 186.

Various persons interested in railway finance expressed opinions concerning the sale of shares at a discount, thus revealing their conceptions of the advantages and disadvantages of this method of raising funds. The editor of *Herapath's Railway Magazine* in June, 1839, endorsed the sale of half shares with the rights of whole shares—an operation which had the same effect as the sale of whole shares at a discount. He wrote:

We here chiefly allude to the plan of raising money by fractional shares, giving them a benefit equivalent to whole shares. This was attempted with success in the Southampton Railway, when their original shares were at a ruinous discount, and when it was evident that the original estimate [of construction costs] was nearly 50 per cent. deficient. The first shares were 20,000 of 50 *l.* each. When about 30 *l.* or 35 *l.* per share had been called up, 16,000 half, or 25 *l.* shares, were created, which were to be on a par, or to have the same individual privilege as to profits, with the original 50 *l.* shares. This supplied, in fact, only 400,000 *l.* available additional capital for the works, but it created a double amount, or 800,000 *l.* additional, for profits to be divided on. The question then is, whether this be a judicious step or not. . . . . Judging from the extremely low ebb of the shares at one time (as much as 28 to 29 discount on 40 *l.* paid), it was not likely that new subscribers would have been found at par, and the works must consequently have been suspended, if not the whole sum paid have been lost. To prevent such a consequence the directors hit upon the said plan of creating new half shares, to have equal claims, half share with share, on the future profits of the concern, the amounts also having to be paid up by easy instalments. This, for raising the additional capital was an excellent stroke of policy. It presented a sort of agreeable compulsion to the proprietors to find the additional capital, and thus secured the completion of the line.

. . . . Any positive injury, however, to the old shareholders, is more apparent than real. Having the option of taking the new shares, they may either keep them and reap the benefit, or part with them and pocket the premium; so that whatever advantage belongs to the new shares, they have it.

Assuming the new shares to be taken by the proprietary, there does not appear in profit to be any ultimate benefit or injury derivable from the plan, whether the additional capital be raised by whole or fractional shares. The entire advantage lies in the inducement to take this capital, that the premium, which is almost sure to attach to the new shares, brings with it. This likewise adds to facility of completion, and so far benefits the old shares. Perhaps, also, in the eyes of the public, the premium of the new may gild the old and render them more attractive; but as to conferring other permanent or substantial advantage or disadvantage, the plan is absolutely neutral; and its whole merit consists in a sort of compulsion to supply the means to finish the works.[8]

Only two objections to the sale of shares at a discount were cited in the article. There was, first, the vague assertion that this method of raising funds might " be a pressure in perpetuity of false capital on the undertaking." [9] In the second place, the possible hardship which might be brought upon the impecunious holder of a small number of shares through his inability to subscribe further was pointed out clearly, but the editor was not willing to go so far as to recommend a method for preventing this.[10] By 1847 the magazine had developed a vigorous attitude on the second objection and spoke of the injustice to original shareholders and a " monstrous sacrifice " of their interests.[11]

From the point of view of some shareholders the sale of shares at a discount was more acceptable than the issue of preference shares. This is set forth fairly well in the following extract from a report of a meeting of the proprietors of the London Cemetery Company held in 1843:

To the first plan [that is, the sale of preference shares] it was objected, that 5 per cent. must be paid to the preference Share-

[8] *Ibid.*, June, 1839, pp. 289-291.
[9] *Ibid.*, p. 292.
[10] *Ibid.*, p. 293.
[11] *Ibid.*, March 27, 1847, p. 436.

holders before the original Shareholders would receive anything, as in that unfortunate concern, the Greenwich Railway, where the preference Shareholders, under all circumstances, get a comfortable 5 per cent., and the original Shareholders are obliged to be contented with a shilling or half-a-crown when they can get it. Original shares, under such circumstances, get completely swamped. By the other plan [that is, the sale of shares at a discount] the interest now paid on the mortgage debt would become immediately applicable for a dividend [the proceeds from the sale of the new shares were to retire the debt] on the whole of the shares, old and new, and whatever might hereafter be realised would be rateably divided among old Shareholders and new. This was the plan after some discussion approved, and the Shareholders present seemed anxious to raise the whole of the new capital themselves without coming into the market.[12]

The arguments of those proprietors who opposed the sale of shares at a discount are likewise interesting. The directors of the Glasgow, Paisley, and Greenock Railway after considering the same methods of raising money informed their shareholders in 1843 that:

They consider that it would be injudicious to issue shares at a discount, as this would oblige the Company permanently to pay dividends on stock, the full amount of which they had not received.[13]

There was another and more plausible argument against the issue of shares at a discount, namely, " a discount would deprive the Company of a portion of their parliamentary capital." [14] This was an important matter, since the borrowing power was limited by the share capital paid in and

[12] *Ibid.*, July 15, 1843, pp. 712-713. For some other instances in which the sale of shares at a discount was more acceptable than the issue of preference shares, see items as to Bristol and Exeter Railway, *ibid.*, July 25, 1840, p. 539 and August 15, 1840, p. 594.

[13] *Ibid.*, September 23, 1843, p. 978.

[14] Manchester and Leeds Railway, *ibid.*, September 25, 1841, p. 823.

the cost of procuring additional share authorizations from Parliament was large.

From the point of view of the public there were disadvantages in the sale of shares at a discount—particularly a large discount as in the case of the Southampton Railway cited above. Under 7 & 8 Vict. c. 85 (August, 1844) the government had the right to purchase the railways thereafter constructed. Had such an event transpired, reckoning the shares at their nominal, rather than discounted, values would have greatly inflated the purchase price. The public was, moreover, likely to lose in the matter of rates. The Railway Commissioners in 1847 were of the opinion that the shares should be taken at their discounted values for rate determination purposes and consequently saw no objection to the sale of shares for less than par.[15] The procedure which they outlined did not, however, seem fair.[16] Parliament had specifically permitted the practice of issuing shares at a discount and those securities had been sold and bought under the justifiable assumption that they would be treated in all respects as other shares which were not so marketed.

Whether the holders of the shares sold for less than par possessed the same rights and obligations as the other proprietors cannot be discussed at length here. A few items, however, may be cited in this respect. Dividends were usually paid from the outset upon the amounts paid in and the discount as well.[17] As to liability to creditors it would seem from the following advertisement of the West London Railway that these shareholders were not responsible for more than the par value less the discount.

[15] *Parliamentary Papers* 1847 (164) XXXI, *Report of the Commissioners of Railway Bills, consisting of the South-Eastern or* Kent *District,* p. 4.

[16] *Herapath's Railway Magazine,* March 27, 1847, pp. 435-436.

[17] For example, Northern and Eastern Railway, *ibid.,* October 8, 1842, p. 1039.

> The Company being incorporated by Act of Parliament, the liability of subscribers for the new shares [that is, £20 first preference shares offered at £10] is limited to the sum of £10 per share.[18]

Such would certainly be the only fair interpretation of parliamentary acts.

As set forth above, Parliament specifically authorized the issue of shares at a discount. At first this was done by special act, but the Companies Clauses Consolidation Act of 1845 made it possible for any company, if its shares were not selling at a premium, to issue new shares "of such Amount" and "in such Manner and on such Terms, as the Company" saw fit.[19]

The second method of raising money for a concern which had reached a crisis in its financial affairs—a sale of shares, with a call for the payment of only a small amount on each share accompanied by the flotation of a loan with the unpaid calls as security—was not an uncommon practice though less frequently used than the sale of either ordinary shares at a discount or preferred stock. This scheme for raising money started as a legitimate device. Under the parliamentary acts the intervals between calls were specified so that the directors could not bring undue pressure upon the shareholders to advance the funds for the works. Whenever, therefore, the money for construction was required more rapidly than expected and the building operations were faced with suspension for want of funds, borrowing in anticipation of calls was employed.[20] Promoters and directors soon saw in this practice a way of defeating the parliamentary requirement that borrowing should be limited to a certain percentage of the share capital and could not be indulged in at all until a certain por-

[18] *Ibid.*, October 22, 1842, p. 1104.

[19] 8 & 9 Vict. c. 16, s. 60 (1845). See also Clifford, I, 135.

[20] For example, Edinburgh and Glasgow Union Canal, 59 Geo. III c. xxix.

tion of the share capital had been paid into the company. It is true that their operations were not always illegal, as the first of the following two illustrations indicates, but there was, even when legal, an element of doubtful morality in the operation.

The editor of *Herapath's Railway Magazine* in 1847 commented as follows upon a Railway Commissioners' report concerning the Great Western Railway:

> We have always been surprised at the very large debt of the Great Western Company in comparison with the amount paid up in shares, and could not comprehend how it was done. But the mystery is now out, or partially out. It appears, that the Company have by certain Acts taken power to borrow one-third of their amount to be raised by shares, as other Companies have; and, besides that, have slipped in clauses, which escaped the notice of Parliament, to borrow money on the credit of the future calls. So that instead of being confined to borrow one-third of the money, they have actually borrowed sums equal to or greater than the whole amount they have raised. Whether it was that they had chalked out beforehand the career they have since run in monetary matters; or whether they foresaw the difficulties of their position, and the inability of the line to pay much dividend; or whether it was that they began upon a system of outwitting, may we say, without offence, overreaching the rest of the world? and tried their hand on Parliament, we know not; but certain it is, that they were too many for the wisdom of that body; for in their very first Act—the Act of 1835—they got in a clause to the effect we have stated, namely, they proposed to raise 2½ millions in shares and one-third of that, or £833,000, in debentures; but by a convenient clause they evaded that, and got power to raise only 1¼ million by calls, and to borrow no less than £2,083,000. (Report, p. 5.)
>
> In an Act for amalgamating the Cheltenham Union and Oxford Railways with them they did the same. We believe the dose on Parliament was repeated in other cases, but we cannot now wade through them.

The reader will see the effect of this. Parliament intended that the sum paid up should be three times as much as the sum to be borrowed, that the lender might be secure; but, behold, their clause was contrived to elude that, and to borrow nearly twice the sum raised by the Shareholders. So that, if we understand it, the Shareholders, had anything happened, would have a property which was about 10s. in the pound to fall back on and worth perhaps 2s. in the pound. It is true they would have the hypothetical security of calls to be made, which, if the concern got into difficulties, we presume would be as valuable as Tigg's tiger preserves in Bengal.[21]

A lack of straightforwardness in this operation of selling shares, calling for a small payment upon them, and then borrowing is also apparent in the discussions upon certain proposals of the directors of the Sheffield and Manchester Railway. The proprietors of the road were asked by their board in 1842 to authorize the issue of £25 shares upon which seven and one-half per cent dividends should be promised for a period of ten years. The directors wanted these shares made subject to an immediate call of £8 and further sums at their discretion. When objections were raised in the shareholders' meeting to both the high dividend rate and the indefiniteness of the further calls, the chairman petulantly replied that:

Persons were running away with the question, who supposed that they were going to guarantee 7½ per cent. on 18,000 shares, of £25 each. The point to consider was, how much of the £25 was likely to be called for; and that was just the point which the Directors did not wish to make the Proprietary cognizant of. The resolutions only pledged the Directors to call up £8 per share. This the Directors thought was a sufficient inducement to persons to take shares, because, at all events, they were certain of 7½ per cent. on the £8 for ten years. Afterwards, if the state of the money market was such that 7½ per cent. was a low rate, they could raise the money by calling up the remainder of the £25.

[21] *Herapath's Railway Magazine,* April 24, 1847, p. 533.

But if by getting out the shares, and having them well taken up, and if by calling up small sums, and the diffusion of the shares, the popularity of the Company was established, they would thereby be enabled to borrow money at 4 or 4½ per cent. on loan notes.[22]

The cost of new money under these proposals was fairly definite—a maximum of seven and one-half per cent. When, however, as in other cases, the holders of the new shares were to receive dividends on the nominal value of their shares at the same rate as that declared on the old shares, then, should calls on the new shares be extended over a long period and in the meantime the company pay substantial dividends, the return to the holders of the new shares could be very large. This indefiniteness of return to the prospective investor and uncertainty of cost to the company, together with the questionable legality and morality of such a method of raising share capital, all worked against its use, though these factors were not strong enough to prevent its employment.[23]

[22] Sheffield and Manchester Railway, *ibid.*, September 30, 1843, p. 1016. For a brief comment upon the use of loan notes and their successor obligation, Lloyd's bonds, see Clifford, I, 126-127. See also Elphinstone, p. 7.

[23] For some instances in which this method of raising funds was used, see "A few Observations on Raising Additional Capital and Loans," *Herapath's Railway Magazine,* July, 1839, pp. 374 ff.; Manchester and Leeds Railway, *ibid.*, September 25, 1841, pp. 823, 840; Midland Counties Railway, *ibid.*, August 20, 1842, p. 864; Glasgow, Paisley, and Greenock Railway, *ibid.*, September 23, 1843, p. 978. For a somewhat similar operation of more doubtful legality in 1839-40, see *The Report of the Committee of investigation of the affairs of the Brandling Junction Railway Company . . . .* , pp. 12, 13. In this case shares were placed in the directors' names and then pledged as security for a loan.

CHAPTER VI

The Constituent Ideas of Preference Shares

A few scattered issues of securities which resemble preference shares can be found in the records of British companies of the seventeenth and eighteenth centuries.[1] The bonds issued in 1698 by the Mine Adventurers' company are referred to by Scott in his treatise on joint-stock companies as "in effect, preference shares." [2] In 1702 the stock of the East India Company was divided into two classes, one of which, since it was entitled to a dividend of eight per cent to be paid by the government, was analogous to preference shares.[3] In another instance, the capital of a company engaged in making and vending beech oil was supplied by two groups of owners, one known as "the annuitants" who were entitled to a fixed and preferential charge on the profits, and the other as "the sharers" who were to divide the balance.[4]

Among the internal improvement companies of the later eighteenth and the early nineteenth centuries, there was a sprinkling of securities which may more properly be called preference shares. The Chester Canal in 1777 promised preferential interest to shareholders who paid upon their holdings a large call in excess of the par value of their shares.[5] The same tactics were employed in 1800 by the Horncastle Navigation. A preferential dividend was

[1] For a clue to early French preference shares, see the discussion of the term action in Malachy Postlethwayt, *The Universal Dictionary of Trade and Commerce.*

[2] Scott, I, 364, 365.

[3] *Ibid.,* and II, 186.

[4] *Ibid.,* I, 390.

[5] 17 Geo. III c. lxvii (1777).

6

offered to any old shareholder who had paid in upon his shares an amount equal to double the par value. In this case, moreover, new subscribers were offered the same preference dividend.[6]

For the next thirty years there are relatively few and widely scattered cases of preference shares. Parliament authorized such an issue for the Aberdeenshire Canal in 1801,[7] the Commercial Docks Company in 1811 and again in 1817,[8] the Edinburgh Joint Stock Water Company in 1819,[9] the Gloucester and Berkeley Canal Company in 1822,[10] the Southwark Bridge Company in 1823 and again in 1824,[11] the Edinburgh and Glasgow Union Canal [12] and the Leominster Canal [13] companies in 1826, and the Portsmouth and Arundel Canal [14] and the Thames Tunnel [15] companies in 1828. Although this list of preference share authorizations is perhaps not complete for the years covered, nevertheless, it is sufficient to give a correct impression of the sort of company which employed such shares and the slowness with which the new device was adopted.

Although companies such as the above were the first to use preference shares in Great Britain, the railroads developed and popularized the new instrument of finance. On June 4, 1829, the Edinburgh and Dalkeith Railway was authorized by Parliament to issue shares with a " Right to Preference or Priority " over the existing shares to the extent of a five per cent non-cumulative dividend but with a further participation in profits.[16] Between 1829 and 1850

[6] 39 & 40 Geo. III c. cix, s. 12 (1800).
[7] 41 Geo. III c. iii, s. 2 (1801).
[8] 51 Geo. III c. lxvi, s. 2 (1811); 57 Geo. III c. lxii, s. 13 (1817).
[9] 59 Geo. III c. cxvi, ss. 4, 35 (1819).
[10] 3 Geo. IV c. liii, s. 3 (1822).
[11] 4 Geo. IV c. cxvi, s. 1 (1823); 5 Geo. IV c. clv, ss. 1, 2 (1824).
[12] 7 Geo. IV c. xlv, s. 13 (1826).
[13] 7 Geo. IV c. xciv, s. 2 (1826).
[14] 9 Geo. IV c. lvii, ss. 8-11 (1828).
[15] 9 Geo. IV c. lxiii, s. 5 (1828).
[16] 10 Geo. IV c. cxxii, s. 6 (1829).

more than one hundred railway preferred stock issues were either authorized by Parliament or made by the companies.[17]

A bewildering and diverting variety of names made their appearance to designate the different kinds of stock. Though the terms, preference and ordinary shares, were employed at an early date and soon became the most popular labels for the two major classes of shares, other names, often more picturesque, were numerous. Active, county, and profitable were used in place of preference; while passive, adventurers', and patriotic replaced ordinary.[18] In the case of the Edinburgh and Glasgow Union Canal Company the word "new" indicated the preferred stock.[19] It must not be supposed, however, that "new stock," a name which appeared frequently, always carried such meaning. Often shares which were issued at a discount were thus designated.[20] Again when additional shares were issued with the same par as those outstanding but with a different amount for the time being paid in upon them, the newly marketed securities were given the same label—new.[21] In the case of the London and Greenwich Railway the preference shares were sometimes called the privileged shares.[22] Occasionally the "Quarter Shares"—that is, those with a par equal to one-fourth of that of the original shares—

[17] See Table F in Appendix.

[18] For example, Bristol and Exeter Railway, *Herapath's Railway Magazine,* November 9, 1839, p. 301; and Devon and Cornwall Railway, *ibid.,* November 16, 1839, p. 321.

[19] 7 Geo. IV c. xlv, s. 28 (1826).

[20] For example, Chester and Birkenhead Railway. Harry Scrivenor, *The Railways of the United Kingdom Statistically Considered . . . . ,* p. 399; *Herapath's Railway Magazine,* December 30, 1843, p. 1338.

[21] For example, Edinburgh and Northern Railway. Scrivenor, p. 641; *Bradshaw's Railway Almanack, Directory, Shareholders' Guide and Manual for 1848 . . . . ,* p. 55. This book will hereafter be referred to as *Bradshaw's Manual.*

[22] *Herapath's Railway Magazine,* February 4, 1843, p. 99. Also *The Economist, Weekly Commercial Times, Bankers' Gazette, and Railway Monitor,* September 4, 1847, p. 1041. Hereafter this journal will be referred to as *The Economist.*

were the preferred.[23] Or again letters of the alphabet or numbers were used to distinguish the different classes of shares.[24] This confusion of language reflects the inchoate state of ideas concerning this emergent device for raising capital.

Before the idea of a preference share could be clearly formulated, the investing public had to become adjusted to the suspension of dividends on shares. Following the difficulties incident to the dilatoriness with which shareholders had met calls levied upon them,[25] the practice of paying interest on all paid-up share calls—even during the early unproductive life of a company—was inaugurated about the close of the seventeenth century. In 1696 the Darien Company, for example, agreed to allow interest from 1698 upon share calls.[26] Soon thereafter such payments became firmly established as accredited financial practice. Throughout the early canal period when preference shares were very infrequently issued, Parliament regularly required corporations engaged in such works to pay interest on all paid-up calls on ordinary shares until construction had been completed. Such was the practice until about 1793. This method of encouraging shareholders to abide by their agreements to furnish the capital was the logical outcome of the factors previously set forth—the long time necessary for canal construction, the large amount of specialized capital needed, the fact that the required sums were procured from the immediate vicinity of each under-

[23] For example, East Lancashire Quarter Shares. Scrivenor, p. 440; *Bradshaw's Manual,* 1848, p. 53. Also Hull and Selby Quarter Shares. *Ibid.,* p. 73; *Herapath's Railway Magazine,* June 3, 1843, p. 575; Scrivenor, pp. 208-209.

[24] For example: Blackburn, Clitheroe, and North-Western B shares, Scrivenor, p. 405; Glasgow, Paisley, Kilmarnock, and Ayr No. 1 and No. 2 shares, *Bradshaw's Manual,* 1848, p. 56 and Scrivenor, p. 656.

[25] Scott, I, 342-343.

[26] *Ibid.,* II, 217-218.

taking, and the nature of the shareholding body which contained many persons of small means.

Before the end of the eighteenth century there were some indications of the approaching necessity for Parliament to make interest payments on shares optional rather than obligatory. The history of the Oxford Canal gives evidence of the changing conditions. Under its act of incorporation, passed in 1769, the company was required to pay five per cent interest on all sums paid in upon its shares.[27] Because this payment proved to be " disadvantageous and inconvenient " to the company, a second parliamentary act in 1775 reduced the rate to four per cent.[28] This relief, however, was not sufficient. In the act of 26 Geo. III c. xx, it is recorded that by 1786 interest on the shares was much in arrears and that the proprietors had agreed that such arrears should be made part of the capital stock.[29] Parliament sanctioned this agreement and removed the obligation to pay four per cent interest on the shares. Dividends, or interest, were henceforth to be determined by the company, though certain limits were placed upon the rate until the borrowed money had been repaid.

The obvious inconvenience and humiliation which beset the companies financially unable to comply with charters which required the payment of interest on all shares, led to the introduction of more cautious provisions into parliamentary acts. In 1789 it was provided that the Andover Canal should pay each year, until the completion of the works, five per cent on its paid-up share calls unless the general meeting of the proprietors should postpone the payment.[30] Such a provision became usual after 1793.

[27] 9 Geo. III c. lxx.

[28] 15 Geo. III c. ix (1775).

[29] For previous instances involving transformation of accrued interest into capital stock, see Forth and Clyde Canal, 24 Geo. III c. 57, s. 29 (1784) and Dudley Canal, 25 Geo. III c. lxxxvii, s. 19 (1785).

[30] 29 Geo. III c. lxxii, s. 38 (1789).

Forty years later as the railway industry developed, the waning practice of paying interest on all shares even when no profits were being made had to be revived in order to induce the required investment. In encouraging the development of this practice among railways, Herapath's magazine played an important part.[31] The leading article in the May, 1839, issue of that journal advocated strongly the payment of about four per cent interest on the deposits and calls paid upon shares.[32] A number of reasons were given to support this contention. In the first place, the field for raising capital would be extended "twenty or thirty, if not eighty or one hundred times," since it could then include those who could not afford to forego a portion of their income during the five or six years of construction. Secondly, the share market would be much steadier. There would result a larger number of small holdings, and people would not sacrifice their shares as long as there was the slightest prospect of a line being completed. In the third place, the payment of interest on deposits and calls would be beneficial from the company's point of view. The enterprises would be "more flush of money," could proceed more vigorously and economically with their works, and could avoid recourse to loans. Such arguments were advanced to meet the objection that the payment urged was "a sort of delusion; taking from the right hand to give to the left."

Herapath's Railway Magazine claimed the credit for a radical change in railway finance. In the July, 1839, issue the following appeared:

In the Bristol papers have appeared some very able letters on the subject of allowing interest on calls, since our article in No. 39

[31] The payment of interest on shares out of capital was opposed by *The Circular to Bankers.* See issue of June 27, 1834, p. 396.

[32] *Herapath's Railway Magazine,* May, 1839, pp. 209-215. A number of items on the same subject followed—for example, a letter signed "Locomotive" was especially recommended by the editor for its sensible observations. *Ibid.,* March 21, 1840, pp. 219-220.

[May, 1839] appeared, and we are glad to find that the views we mooted on this subject have been, throughout the country, so well received. That it will become general we have no doubt.[33]

And three years later in an article entitled "Payment of Interest on Calls" the same periodical presented the following:

For our part we take credit to ourselves for having proposed and advocated it [the payment of interest on calls], and look upon it as one of the best things we have ever done for the benefit of the railway public. Already has it saved more than one railway from bankruptcy, and brought to a successful conclusion works which, without it, would never have been completed. We rejoice to see it now almost universally adopted, and we have no doubt in all future cases where men of sense have the direction it will be introduced. The wisest act of the Sheffield and Manchester Company has been its adoption, and we have no hesitation in asserting it to be the only plan which can save the Company.

We are glad to perceive by the prospectus also that the Thames Haven Company have determined to pay 5 per cent. interest on the calls. This is in our opinion a very prudent step, and one which will tend more to the success of the undertaking, than any other principle that could be adopted.[34]

In the light of what has been written above as to the practice of paying interest on all shares and in view of the fact that some railways had prior to 1839 used this method for getting calls paid,[35] it is obvious that Herapath's magazine did little more than encourage the revival among the railways of a device which at an earlier time had been widely employed in allied fields.[36]

[33] P. 430. An item on the Bristol and Exeter Railway.

[34] March 26, 1842, p. 328.

[35] For example, Great Leinster and Munster Railway, 1 Vict. c. civ, s. 86 (1837).

[36] Some of the canals which paid interest on calls have been cited. Illustrations of concerns in allied fields which did likewise are furnished by the Strand Bridge Company, 53 Geo. III c. clxxxiv, s. 14 (1813); the West India Dock Company, 39 Geo. III c. lxix, s. 42 (1799); and the London Dock Company, 39 & 40 Geo. III c. xlvii, s. 6 (1800).

The idea of a steady return for the investor, so stressed by Herapath, did not involve any preferential treatment for a particular class of shares. But this idea might well have strengthened the inclination to offer a preference whenever the condition of a company made impossible the payment of dividends to all shareholders. Furthermore, some differentiations in shareholders which had gradually been introduced also made the use of preference shares a logical step for a company in financial straits. During the period when interest was paid on all calls there was the distinction between the shareholder who had paid the total amount due on his shares and the one who was in arrears. The former received his interest if the company could raise the money, but the latter was invariably refused payment until calls had been met. Around 1800 when financial pressure was developing, many companies were forced to pay interest on all prepaid calls.[37] This effort to procure the full payment of the original shares formed another instance of shareholder classification. Preference shares represent a further step in this development. As the procurement of new capital became more difficult, and as new issues of shares became imperative because of the parliamentary rules for borrowing, companies which were in financial difficulties had to promise new subscribers preferential dividend treatment. The preference share was thus the outgrowth of a demand for shares yielding a certain return, the acceptance of the practice of paying

[37] For example: Horncastle Navigation, 39 & 40 Geo. III c. cix, s. 3 (1800); Wilts and Berks Canal, 41 Geo. III c. lxviii, s. 9 (1801).

Calls were probably not often paid in advance. In 1839 the editor of Herapath's magazine wrote: " . . . . but where is the man that will do this [pay his calls in advance] though he can, knowing that others are not doing so? There is always a lurking feeling of insecurity, from an idea of disproportional risk, men do not like to run, where the payments of all are not *pari passu*." *Herapath's Railway Magazine*, May, 1839, p. 213.

interest out of capital, and the habituation to some differentiation of shares. With the prevalence of such ideas and a set of conditions which rendered the payment of dividends or interest on all shares impossible and which at the same time made new share subscriptions essential, the preference share would seem to have been inevitable.

CHAPTER VII

The Issue of Preference Shares

The Railway Department of the Board of Trade prepared for Parliament in 1855 a table which showed the funds raised by the railways through the sale of shares and the use of loans. The share capital paid up on December 31, 1849, and at the close of each subsequent year, was divided into the amounts procured through the issue of ordinary and preference shares. There are thus for the railway industry figures showing the extent to which early preference shares were used, but unfortunately the Department did not carry its subdivisions for share capital back further than the year 1849. Though the present study is not primarily concerned with the period examined by the Department, the findings form an interesting exhibit against which to project some figures on preference share issues which I have compiled for the years prior to 1850. Table VI gives in part the data released by the Department in 1855 and a continuation of the figures which was sent to Parliament three years later. The increase—both absolute and relative—in the use of preference shares is one of the most interesting features of the table.

Figures for an earlier period similar to those published by the Department could not be collected. In consequence, a contrast is drawn in Table VII between the total railway share capital which Parliament authorized the companies to raise—not that actually paid up—and the attempted as well as the authorized preference share issues. Those of the latter group which were not authorized by Parliament should not perhaps be included in figures which are

TABLE VI

FUNDS RAISED BY RAILWAYS[1]

1848–1857

	Total amount paid up on shares and loans on Dec. 31 of each year		Share capital paid up on Dec. 31 of each year: Ordinary shares		Share capital paid up on Dec. 31 of each year: Preference shares		Loans on Dec. 31 of each year	
Year	Amount £	% of total	Amount £	% of total	Amount £	% of total	Amount £	% of total
1848	200,173,059	. . .	156,508,578	not separated in returns			43,664,481	. .
1849	229,747,778	100	158,560,118	69	19,852,506	9	51,335,154	22
1850	240,270,745	100	150,022,877	63	34,740,800	14	55,507,068	23
1851	248,240,896	100	155,060,024	62	34,494,155	14	58,686,717	24
1852	264,165,672	100	161,400,256	61	38,700,755	15	64,064,668	24
1853	273,324,514	100	165,054,677	60	43,527,379	16	64,742,458	24
1854	286,068,794	100	166,030,806	58	49,377,952	17	70,660,036	25
1855	297,583,284	100	169,604,017	57	52,818,026	18	75,161,241	25
1856	308,775,894	100	174,359,304	57	57,057,171	18	77,359,419	25
1857	314,989,826	100	178,567,935	57	58,061,655	18	78,360,236	25

[1] *Parliamentary Papers* 1854-55 [1965] XLVIII, *Report to the Lords of the Committee of Privy Council for Trade and Foreign Plantations of the Proceedings of the Department relating to Railways, for the Year 1854.* July 13, 1855, p. xvii.

Parliamentary Papers 1857-58 [2437] LI, *Report to the Lords of the Committee of Privy Council for Trade and Foreign Plantations of the Proceedings of the Department relating to Railways, for the Year 1857,* p. xiii.

TABLE VII

ALL RAILWAY SHARE ISSUES AUTHORIZED BY PARLIAMENT CONTRASTED WITH RAILWAY PREFERENCE SHARE ISSUES 1826–49

Year	All shares [2] £	Preference shares [3] £	Preference shares as percentage of all shares
1826	1,251,353	......	..
1827	131,608	......	..
1828	332,000	......	..
1829	737,875	54,875	7
1830	510,000	10,000	2
1831	1,410,875	......	..
1832	189,185	......	..
1833	4,155,000	......	..
1834	1,346,053	12,000	1
1835	3,540,200	......	..
1836	17,840,000	......	..
1837	9,010,500	242,000	3
1838	1,411,198	104,198	7
1839	4,956,491	720,000	15
1840	1,581,700	495,000	31
1841	2,562,770	687,500	27
1842	3,992,975	1,118,725	28
1843	3,092,952	1,082,600	35
1844	13,149,750	4,206,050	32
1845	45,555,910	1,813,783	4
1846	96,848,930	10,261,777	11
1847	30,854,210	5,488,969	18
1848	13,930,887	7,161,495	51
1849	3,717,800	2,446,721	66
Total	262,110,222	35,905,693	14

[2] The figures for "All shares" are gross; that is, there have been no alterations for reductions in capital, which were from time to time allowed.

The data for 1826-43 were compiled from *Parliamentary Papers* 1844 (159) XLI, *Return of all Monies to be raised under the Sanction of the Acts whereby Railroad Companies have been incorporated, between the 1st day of January 1826 and the 1st day of January 1844.*

The data for 1844-47 were compiled from *Parliamentary Papers* 1847-48 (731) LXIII, *Return of the Name of each Railway for which Acts have been obtained in each of the Years 1844, 1845, 1846 and 1847* . . . .

The figure for 1848 was taken from *Parliamentary Papers* 1849 (535)

to be compared with total share authorizations; but on the other hand, when parliamentary acts permitting share issues were so worded that the company could market shares " on such Terms and in such Manner " as the proprietors saw fit, and when there was no evidence to indicate that preference shares were used under these acts, such authorizations have not been added to swell the preference share figures. Those instances were also excluded in which proprietors' meetings considered preference share issues, but did not pass resolutions authorizing money to be raised in that fashion. Table VII thus gives yearly a comparison of the amount of capital which Parliament allowed railway companies to raise through the sale of shares, and the sum which railway companies were authorized to raise by the use of preference shares plus the sum which they unlawfully sought to raise in the same manner. Lest this table convey for the earliest years an erroneous impression concerning the issue of preference shares in general, the reader is warned that the figures relate to railways only.

LI, *Return, showing for each Railway Company the Amount of Capital and Loans authorized to be raised by Acts passed in 1848 . . . .* , p. 18.

The figure for 1849 was taken from *Parliamentary Papers* 1851 (187) LI, *Returns, showing for each Railway Company the Amount of Capital and Loans which the Company has been authorized to raise by Acts passed previous to and in 1849 . . . .* , p. 16.

[3] The yearly totals have been built up from Table F in the Appendix. The amount of each issue was that recorded in item (1) if such a figure existed; if not, the figure in item (2) was taken. The issues were classified, whenever possible, on the basis of the date of parliamentary authorization. A few exceptions to this scheme were made because of the wide discrepancy between the dates of proprietary and parliamentary action. In each of these instances, the issue was classified according to the date of proprietary action. The following were the exceptions: London and Blackwall issue of May 20, 1845; London and Blackwall issue of January 12, 1847; Glasgow, Paisley, Kilmarnock, and Ayr issue of January 14, 1847; Chester and Holyhead issue of August 11, 1847; Eastern Union issue of August 20, 1847; Slamannan issue of February 26, 1848; Caledonian issue of July 20, 1848; Leeds and Thirsk issue of October 7, 1848; and Leeds and Thirsk Extension share issue of August 25, 1849.

Preference share issues of canal, dock, and bridge companies preceded the early railway experience.

A comparison of Tables VI and VII yields some interesting points. In the first place, it would appear that a small percentage of the money planned to be raised by preference shares had actually been obtained. By the end of 1849, railway companies had planned to procure £35,905,693 by the issue of preference shares, but had actually received only £19,852,506—that is, only fifty-five per cent. Even this percentage may be high since the £19,852,506 may contain what we would now call guaranteed shares.[4] An estimate of a corresponding percentage for the ordinary shares would be seventy per cent.[5] A comparison of the figures fifty-five and seventy [6] is not unfavorable to the preference share when two points are realized—shares were paid for through calls which often extended over a long period of time, and nearly seventy-one per cent of the preference shares of Table VII belong to the last four years.

Table VII indicates a decided trend toward a greater use of preference shares, and Table VI suggests that the movement was continued. This pronounced growth occurred because investors found preference shares acceptable, because corporation officials considered the preference share

[4] There are a number of places in which the term preference share was employed in an all inclusive way. See, for example: *Fenn's Compendium of the English and Foreign Funds, Debts, and Revenues of All Nations; Banks, Railways, Mines, and the Principal Joint Stock Companies; . . . . ,* pp. 522-523; and also *The Bankers' Magazine, and Statistical Register,* N. S., IX (October, 1859), 297.

[5] 158,560,118 ÷ (262,110,222 — 35,905,693).

[6] A similar comparison may be made in another way. The capital paid up on preference shares on December 31, 1849, that is, £19,852,509, formed only 11 per cent of the total share capital paid up on that date; while the total sum planned to be raised by preference share issues was 14 per cent of the total parliamentary share authorizations made prior to January 1, 1850.

the best method of meeting certain conditions, and because Parliament was willing to authorize the use of the new type of shares. The investment market is the subject of a later chapter; the remainder of the present treats the attitude of Parliament and the conditions which provoked the use of preference shares together with the technique of getting them into the hands of the public.

In none of the early preference share issues was there any intention of trading on the equity. That is, preference shares were not originally issued with the idea that the capital thus brought into a company would earn a larger return than the fixed preferential dividend and thus increase the return upon the ordinary shares. A preference was given purely because it was a necessary inducement for investors. The following illustrations adequately bring out the unsatisfactory outlook for those companies which early sought to issue preference shares.[7] The projects were generally in an unfinished state, in poor repair, in need of improvements, in debt beyond parliamentary authorizations, unable to raise money on mortgage, with shares forfeited, or in a situation where it was not practicable to make further calls. The passages given below are taken from the preambles of various statutes, passed prior to 1830, which authorized the issue of preference shares.

And whereas the said Company of Proprietors have made further Progress towards the Completion of the said Canal, and have expended upon the same not only the whole of the said Sum of Sixty-nine thousand eighty-two Pounds, but have incurred various Debts as well for Lands set out or taken for the Use of the said Canal Navigation and the Works belonging thereto or connected

[7] One exception to the contention that the early preference shares were issued by the companies after they had become involved in financial difficulties would be the case of the Edinburgh Joint Stock Water Company. The preference shares of this concern were issuable at organization to the City of Edinburgh for existing water-works. 59 Geo. III c. cxvi (1819).

therewith, as also for the Materials, Implements, and Instruments, and Labour performed in the Prosecution of the said Undertaking, to the Sum of Twenty-three thousand Pounds and upwards: And whereas the said Company of Proprietors have been unable to raise any Sum of Money by Mortgage of the said Canal Navigation and Works, for the Discharge of their Debts, or for carrying on the said Undertaking: And whereas some of the Proprietors of the said Six hundred and eighty-six Shares have died in a State of Insolvency, and others have relinquished their Shares in the said Concern, and it hath been found impracticable to raise any further Sums of Money by Calls on the Proprietors of the said Shares: . . . .[8]

And whereas the said Company of Proprietors have proceeded to carry into Execution the said several recited Acts of Parliament, and thereby have expended a larger Sum of Money than they were by the said Acts empowered to raise, or otherwise have burdened the said Canal and Works with Debts on account thereof, which the said Company of Proprietors have not at present the Means of discharging: And whereas the said Sums of Money so raised under the Authorities and in Manner aforesaid, and the said Debts so incurred as aforesaid, have been found insufficient for completing and enlarging the said Canal and Works, by reason whereof the said Undertaking is in an unfinished State, and many Parts thereof have, from Disuse and the Want of the necessary Funds for keeping the same in repair, fallen into Decay; from all which several Circumstances the said Undertaking will soon be in danger of becoming useless, unless the same be speedily and effectually completed and repaired: . . . .[9]

And whereas the unexpected Increase of the Expence of the Work beyond the original Estimates for the same, and the extra Work deemed necessary in the Progress of the Undertaking, and other unforeseen Circumstances, have raised the Expences of completing the said Railway and other Works greatly beyond the Amount originally contemplated, and the said Company will be

[8] Leominster Canal, 7 Geo. IV c. xciv, preamble (1826).
[9] Portsmouth and Arundel Canal, 9 Geo. IV c. lvii, preamble (1828).

unable to continue their Operations or to complete the said Railway. . . . .[10]

In the course of time the preference share was adopted before extreme financial embarrassment, such as is described in each of the above excerpts, had been reached. During the late 'thirties and for some years thereafter, both the tightness of the money market and the fact that the railways were not producing the expected dividends were more frequently stressed than the serious predicaments into which the companies would fall without the new funds which were deemed necessary. The chairman of the Birmingham, Bristol, and Thames Junction Railway when urging upon the proprietary the issue of preferred shares in 1839 was reported to have said:

The present scarcity of money, and the temporary depreciation of railway property in all parts of the Kingdom preclude the expectation of raising the necessary funds by any other means.[11]

The chairman of the Glasgow, Paisley, and Greenock Railway advocating a preferred stock issue in 1843 said:

From the small dividend hitherto paid by this Railway, it is obvious that the Directors cannot expect the new shares will be taken at par, unless some inducement is offered to the Proprietors or to the public.[12]

[10] Edinburgh and Dalkeith Railway, 10 Geo. IV c. cxxii, preamble (1829). For other interesting preambles see Chester Canal, 17 Geo. III c. lxvii (1777); Aberdeenshire Canal, 41 Geo. III c. iii (1801); Gloucester and Berkeley Canal, 3 Geo. IV c. liii (1822). The 1839 parliamentary hearings on the London and Croydon Railway bill also throw light upon the early issue of preference shares. The chairman of the road testified that shares were to be issued to enable the completion of the line and that a preference would be attached only "in case of public opinion abandoning us." *Parliamentary Papers* 1839 (517) X, *Second Report from the Select Committee on Railways* . . . . , p. 4, § 1439.

[11] *Herapath's Railway Magazine*, September 14, 1839, p. 113.

[12] *Ibid.*, September 23, 1843, p. 978. For several other brief contemporary comments on preference shares, see *ibid.*, September 30, 1843, pp. 1014-1015; Arthur Smith, *The Bubble of the Age; or, The Fallacies*

According to one writer of 1848, many preference shares arose out of the conditions which followed the railway mania of 1845. The speculation in railway shares which reached its peak in August, 1845, resulted in unsteadiness—to say the least—in the share market of 1846, an almost continuous decline in values throughout 1847, and a marked fall in 1848.[13] The writer said:

> The general reduction of dividends in the last half of the former year [1847], aggravated by the pressure of calls, few of the companies manifesting a disposition to restrict expenditure, although professing to do so, engendered much distrust in the public mind, and no active measures being adopted for the suspension of works, but on the contrary, strenuous endeavours being made to raise capital by the issue of preference shares, at rates of interest varying from 6 to 7 per cent., alarm gradually increased until the market was almost absolutely abandoned by investors.[14]

The table of railway preference share issues given above certainly supports the contention that many preference shares arose during the aftermath of the 1845 railway mania. This fact raises the question of the relation between preference share issues and the business cycle. A close correlation is indicated by Table VIII.

Another change in the use of preference shares occurred in the middle 'forties. Although some companies continued to issue such shares in attempts to recover from almost hopeless situations,[15] and although other companies in their efforts to raise additional funds to finish their original projects found it necessary because of the money market

of Railway Investment, Railway Accounts, and Railway Dividends, p. 51; C. Locock Webb, *A letter to the Right Hon. Henry Labouchere, M. P., President of the Board of Trade, ... on Railways, their Accounts and Dividends . . . .*, p. 38.

[13] D. Morier Evans, *The Commercial Crisis 1847-1848 . . . .*, pp. 1-52, 124.

[14] *Ibid.*, p. 124.

[15] For example, Aberdeen Railway, *The Economist,* January 27, 1849, p. 110.

TABLE VIII

RAILWAY PREFERENCE SHARE ISSUES AND BUSINESS CONDITIONS

Year	Amount of railway preference share issues as percentage of sum which railways were authorized to raise by shares [16]	Description of business conditions [17]
1826	..	Depression
1827	..	Revival
1828	..	Prosperity
1829	7	Recession; depression
1830	2	Depression; revival
1831	..	Recession; depression
1832	..	Depression
1833	..	Revival
1834	1	Prosperity
1835	..	Prosperity; stock exchange panic
1836	..	Prosperity; financial panic
1837	3	Recession; panic; depression
1838	7	Depression
1839	15	Depression
1840	31	Depression
1841	27	Depression
1842	28	Depression
1843	35	Depression; revival
1844	32	Mild prosperity
1845	4	Prosperity
1846	11	Prosperity
1847	18	Prosperity; panic; recession
1848	51	Depression
1849	66	Depression; revival

16 Data from Table VII.

17 Willard Long Thorp, *Business Annals*, pp. 158-162.

to offer the same inducement for subscriptions,[18] there were many companies which were using preference shares in connection with readjustments of financial structure, or to facilitate the making of extensions and consolidations. The London and Blackwall Railway in 1845 offered three and one-half per cent preference shares in order to raise the funds with which to retire some six per cent debentures.[19] The operation was so successful that the company used it again in 1847.[20] For the construction of extensions, preference shares had been used before the middle 'forties,[21] but, as the original projects of the railways were completed or approached that state, the expansion era set in and the use of preference shares became more prominent in this connection.[22] Moreover, consolidations rapidly displaced construction as a method of growth and preference shares also played an important part in this movement. The St. Helen's and Runcorn Gap Railway, for example, in 1845 absorbed the Sankey Brook Navigation Company. Under the agreement with the canal shareholders, the railway had to pay £144,000. In order to raise the money to effect the purchase, preference shares of the railway were offered as a privileged subscription to both the canal and the railway shareholders. The calls on the new shares provided the purchase money which was to be paid over a period of five years.[23] The Leeds and Thirsk Railway fur-

[18] For example, Manchester, Sheffield, and Lincolnshire Railway, *Herapath's Railway Magazine,* August 28, 1847, p. 1014. In this instance preference shares were issued in order to avoid calls upon the ordinary shares.

[19] *Ibid.,* May 24, 1845, pp. 793-794.

[20] *The Economist,* January 16, 1847, p. 83.

[21] For example, London and South-western Railway, 2 & 3 Vict. c. xxviii, preamble (1839).

[22] For example: West London Railway, *Herapath's Railway Magazine,* March 9, 1844, p. 283; Eastern Counties Railway, *ibid.,* May 4, 1844, p. 526; London and Brighton Railway, *ibid.,* January 11, 1845, p. 53; Norfolk Railway, *ibid.,* August 28, 1847, p. 986.

[23] Scrivenor, p. 506.

nishes a slightly different example. The road in 1847 agreed to purchase the Stockton and Hartlepool line for £240,000—£150,000 in fully paid preference shares and £90,000 in cash.[24] These were instances of complete absorption; in other cases, railways through the purchase of preference shares assisted in the construction of adjoining projects.[25]

At the same time that the preference share was being put to additional uses in the railway industry, the new type of security was being employed outside the inland transportation field. Banks, steamship companies, and a mining undertaking found it advisable to market preference shares.[26] It appears that these issues were provoked by financial straits as desperate as those which gave rise to the earliest preference shares in the public utility companies. Banks which had been forced to close their doors sought new money to enable the resumption of business; other enterprises found it impossible to raise much needed funds through loans or further calls on the shareholders.

Confronted with the various situations set forth above, the directors of many corporations suggested to their proprietaries issues of preference shares. It is, of course, not to be wondered that the suggestion for such an issue was made by those actively in charge of the running of a corporation. It was the duty of this group to guide the destiny of the company. Moreover, the management was in a better position than any stockholder to know the financial plight of the company or its expansion program, as well as the condition of the money market. The keen interest which the shareholders of a century ago manifested in their corporations, however, led some to suggest to their

[24] *Herapath's Railway Magazine,* January 16, 1847, p. 69.

[25] For example, Bristol and Exeter Railway purchase of South Devon Railway preference shares, *ibid.,* March 6, 1847, p. 327.

[26] See Appendix, Table F, items 55, 56, 70, 77, 105, 106, and 108.

officials the issue of preference shares. For example, on January 9, 1845, Thomas Jevons, a shareholder in the Thames Tunnel Company, wrote to Sir M. I. Brunel—the company's engineer—to propose a scheme for facilitating traffic through the tube which had been opened in 1843. Concerning the funds which would be required to carry his plan into effect, he wrote:

> . . . . and I do not entertain a doubt that the money would be raised. For if it could not be done in any other way we might have a creation by the proper authority of *Preference* Shares with a good round interest, which would most surely produce the needful.[27]

The directors, with the idea of issuing preference shares evolved by one or more of their number, or received from the outside, then took steps—if they were to proceed legally—to procure from Parliament the authority to create the new shares. Sometimes in accordance with their company's act of incorporation, they called a special proprietors' meeting to get the authority to petition Parliament for the desired power.[28] In other instances the directors applied to Parliament first and then, either before[29] or after[30] that body had acted, asked the proprietors, assembled in special meeting, for approval of their action. After the statute had been obtained and accepted by the shareholders, the preference shares were finally brought into existence—sometimes by a resolution of the direc-

[27] *A collection of miscellaneous documents relating to the Thames Tunnel comprising the Acts of Parliament, reports, views, manuscript letters,* etc. British Museum 8776 g 24.

[28] For example, Eastern Counties Railway, *Herapath's Railway Magazine,* May 4, 1844, p. 526.

[29] For example, Preston and Wyre Railway, *ibid.,* February, 1839, p. 676.

[30] For example, London and Greenwich Railway, *ibid.,* July, 1837, p. 36 and August, 1837, p. 109.

torate,[31] sometimes by a resolution of a meeting of the proprietary.[32]

There are a few instances which attest the importance of obtaining parliamentary approval for an issue of preference shares prior to the actual sale. The Southwark Bridge Company, partly to allay doubts which had arisen as to the legality of the sale of some shares with a preference dividend, procured an act which received the royal assent on June 27, 1823.[33] This specifically permitted the use of shares with a priority of dividend. A previous law had authorized the use of mortgages, annuities, bonds, notes, or *other securities* which as to annual return should have priority over and precede all dividends and divisions of profit or interest among proprietors.[34]

The above instance occurred at an early date, and it might well be supposed that later, when preference shares were more usual, the investors would not be so insistent upon specific parliamentary sanction for the preference dividend provided authority to issue shares existed. Moreover, a preference dividend would seem to be the concern of only the shareholders, except perhaps in a public utility as an incident of rate regulation. The railways—the field in which preference shares were most used—were cer-

[31] The proprietors of the South Devon Railway, for example, created half shares on January 9, 1847, and authorized the directors to issue them at such times and in such manner as they might deem expedient. Shortly thereafter, the new shares were issued by the directors with a preference dividend of six per cent guaranteed for ten years. *Bradshaw's Manual,* 1850, p. 138. See also *Stevens* v. *The South Devon Railway Company,* 9 Hare 313 (1851). For another illustration see Manchester and Leeds Railway, *Herapath's Railway Magazine,* September 6, 1845, p. 1567.

[32] For example, London and Croydon Railway, John Whitehead, *Railway and Government Guarantee.* Which *is Preferable? . . . . ,* p. 25. See also London and South Western Railway, *The Economist,* December 4, 1847, p. 1411.

[33] 4 Geo. IV c. cxvi, preamble and ss. 1, 2 (1823).

[34] 1 Geo. IV c. xlix, s. 3 (1820).

tainly in the category of public utilities, but during the early period here under discussion there was nothing to indicate that there was any sentiment to the effect that preference dividends should be regulated in order to provide the public with lower rates. The feeling that parliamentary sanction for the preference dividend was necessary very likely owed its existence to the fact that preference shares were regarded at first as in the nature of a loan.[35] With such a conception and with definite parliamentary rules as to borrowing, investors might well have questioned preference share issues for which specific parliamentary sanction was lacking. This attitude was evident in 1842 in a meeting of the proprietors of the Sheffield and Manchester Railway. A shareholder wanted to know whether a plan involving the use of preference shares could be legally carried through without going to Parliament, and the ambiguous answer—which apparently satisfied the meeting—was that it could not be considered a safe transaction without the legislature's consent but that there was little to be apprehended if all parties concerned assented.[36] The meeting later resolved that in its opinion the preference shares ought to be issued previous to the parliamentary sanction for such action.[37] Whether or not the directors acted in accordance with the opinion of the meeting has not been determined.

There were, however, companies which did employ preference shares without specific parliamentary authorization. The following comment of the Railway Commissioners in 1847 as to the Eastern Counties Railway not only gives some of the details concerning two unlawful issues of preference shares, but indicates the attitude of that body toward such issues:

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[35] See ch. viii.

[36] *Herapath's Railway Magazine,* January 22, 1842, p. 82.

[37] *Ibid.,* January 15, 1842, p. 50.

3d. One of the most remarkable of the pecuniary transactions in which the Eastern Counties Company has been engaged is the creation of the York Extension shares mentioned above. The Company having proposed to extend their Line to York, they obtained the signatures of their Shareholders to Subscription Contracts, and issued Scrip under the above title. The Line having been rejected by Parliament in the Session of 1846, the Company had to determine upon the course to be taken with respect to the scrip. They state that these shares, (amounting to 3,700,000 *l.*), as well as the guaranteed five per cent. shares mentioned above (amounting to 960,000 *l.*), were, in their opinion, 'incapable of being called in, except with great injustice to the many hundreds who were the holders.' The Company, in consequence, determined to ratify these shares, although without any legal sanction; and with the view of finding employment for the money, they resolved not to raise the capital which had been authorized by certain Acts of Parliament which they had obtained, but to execute the works authorized in those Acts by means of calls on these York Extension shares, and on the second issue of guaranteed five per cent. shares. They have proceeded to carry this resolution into effect, and they now apply to Parliament as well for a legal sanction for these proceedings as for authority to apply any remaining portion of the money to be raised on these hitherto unauthorized shares to the new works proposed to be authorized by their Bills of this Session. It will be for Parliament to determine, after a consideration of all the circumstances of the case, whether it may or may not be expedient to give its sanction to this application. Whatever may be its decision in this case, it is most important that no general sanction should be given to the future adoption of such a system by Railway Companies, as it is to be feared, that if Companies should be allowed to raise large sums of money without legal authority or appropriation, a practice may arise of issuing new shares at a premium in times of prosperity and speculation, and of afterwards applying for Parliamentary sanction to schemes of doubtful utility, which have been devised chiefly for the purpose of giving employment to the capital which has been so raised.[38]

[38] *Parliamentary Papers* 1847 (164-XXVI) XXXI, *Report of the Commissioners of Railways on the Eastern Counties Schemes,* p. 7.

An item in *The Bankers' Magazine* of 1849 suggests an increasing resort to the sale of preference shares for which no parliamentary approval had been procured. In the February issue the following appeared as a quotation from Whitehead's most recent edition of his *Superiority of Guaranteed Railway Stock to Government Securities*:

> The question of legality [of preference shares] is, however, one of too serious moment, involving, as it does, a capital of eight millions and a half sterling, to be allowed to rest in doubt; and there is no question that, if the subject were properly brought under the notice of the railway commissioners by the several boards of those companies which have issued preference shares, those functionaries would take the matter in hand, and promote some general act to legalize the past, and provide for the future. The legislature has already done this in respect of the loan notes which were illegally issued, and it would do the like now to remove every shadow of doubt from a class of securities respecting the issue of which the utmost which can be alleged against their strict legality is, that some purely technical formality has not been attended to.[39]

Some of these shares were issued in the belief or the hope that the Companies Clauses Consolidation Act of 1845 [40] conferred the right to create preferred shares without a special act. The Leeds and Thirsk Railway Company in 1848 resolved to sell preference shares pursuant to the powers contained in the above-mentioned general act and in several special statutes.[41] The legality of this action was tested in the courts in 1856.[42] The special acts relied upon obviously did not, according to the court, authorize preference shares so that the Companies Clauses

[39] *The Bankers' Magazine; and Journal of the Money Market,* IX (February, 1849), p. 99.

[40] 8 & 9 Vict. c. 16 (1845).

[41] *Crawford* v. *The North-Eastern Railway Company,* 3 K. & J. 724 (1856).

[42] *Ibid.*

Consolidation Act of 1845 was the only possible basis for a classification of shares. This law, however, was not carefully considered by the court, since the company had procured in 1851 a special act which validated the transaction. In other cases attorneys argued that issues of preference shares were legal under the above-mentioned general act of 1845.[43] In each instance they relied upon section 60 which read:

> If at the time of such Augmentation of Capital taking place the existing Shares be not at a Premium, then such new Shares may be of such Amount, and may be issued in such Manner and on such Terms, as the Company shall think fit.

But the courts were not willing to give a broad interpretation to this clause.[44] Their attitude certainly seems proper when section 60 is read in conjunction with clauses 57 and 120. The former states that new shares should be considered the same as original shares except as to the times and amounts of calls; the latter provides for the payment of the sum available for a dividend among the shareholders according to the shares held by them, the amounts paid thereon, and the periods during which the same should have been paid. Section 60 apparently allowed only the issue of shares at a discount. The use of preference shares needed special legislative authorization, and this remained so for some time.[45]

[43] For example, *Edwards* v. *The Shrewsbury and Birmingham Railway Company,* 2 De G. & Sm. 549 (1849).

[44] *Sturge* v. *The Eastern Union Railway Company,* 7 De G. M. & G. 171-172, 175 (1855); and *Crawford* v. *The North-Eastern Railway Company,* 3 K. & J. 740 (1856). See also *Fielden* v. *The Lancashire and Yorkshire Railway Company,* 2 De G. & Sm. 531 (1848), in which counsel argued that the Companies Clauses Consolidation Act of 1845 did not give authority for the issue of preference shares.

[45] The first general act which dealt with preference shares was The Companies Clauses Act, 1863, 26 & 27 Vict. c. 118. Sections 13-15 set forth the characteristics of preference shares thereafter to be authorized

Until the late 'forties there is nothing to suggest that Parliament was opposed to giving through special legislation the right to issue preference shares.[46] There were some attempts in the 'thirties to curb railway expansion, but these did not involve any aversion to a particular type of security. In 1837 the House of Commons resolved that persons seeking to obtain railway bills should not be allowed to proceed until a sum in money, exchequer bills, or other government securities to the amount of ten per cent of the capital required for the completion of the undertaking should have been subscribed and deposited in the Bank of England. Such action was taken to prevent speculation and to force the petitioners to give evidence that their undertakings were bona fide.[47] It was the general practice for the companies, in the event that their petitions to Parliament failed, to return to the contributors these deposits with [48] or without [49] interest, or to return at least that portion of the sum advanced which had not been expended.[50] An attempt was made in 1839 to make the ten per cent deposit payable in two installments, but it failed.[51]

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under special acts. For later references to the fact that specific parliamentary authority for preference shares was necessary, see "Railway Finance," *The Quarterly Review,* CXXII (April, 1867), 498; also John D. Lawson, "Preferred Stock," *The American Law Register,* N. S., XX (October, 1881), 637.

[46] An exception may be found in the Great Western Railway. In 1839 it was claimed by the chairman of this road that the statutes concerning his company prevented the issue of preference shares. *Parliamentary Papers* 1839 (222) X, *First Report from the Select Committee on Railways. Together with the Minutes of Evidence, and Appendix,* ss. 878-881. But see 2 & 3 Vict. c. xxvii, s. 2 (1839).

[47] *The Parliamentary Debates,* 3rd Ser., XXXVIII, 1899-1902.

[48] For example, London and South Western Railway, *The Economist,* December 4, 1847, p. 1411.

[49] For example, Northern and Eastern Railway, *Herapath's Railway Magazine,* February 18, 1843, p. 185.

[50] For example, Leeds and Thirsk Railway, Scrivenor, p. 456.

[51] *The Parliamentary Debates,* 3rd Ser., L, 89-97.

Partly for the purpose of reviving business and partly to lessen the restrictions upon bona fide schemes, the House of Commons in 1844 reduced the deposit to five per cent; at the same time the custodianship of the money was changed to the courts.[52] The new rule did not prove satisfactory and in 1845 the Commons revived the ten per cent deposit requirement.[53] These regulations were not designed to affect the preference more than the ordinary share. The primary purpose was to influence construction.

In 1847 the House of Commons again took steps to curb speculation in the railway industry; and this time the action did have the effect of lessening the use of preferred stock. The following Standing Orders were established:

> That a Clause shall be inserted in every Railway Bill, prohibiting the payment of any Interest or Dividend in respect of Calls under such Bill (except the Interest by way of Discount on Subscriptions prepaid, agreeably to 8 Vict. c. 16, s. 24), out of any Capital which they may have been authorized to raise either by means of Calls, or of any power of borrowing.[54]

> That no Railway Company shall be authorized, except for the execution of its original Line or Lines sanctioned by Act of Parliament, to guarantee interest on any shares which it may issue for creating additional Capital, or to guarantee any rent or dividend to any other Railway Company, until such first-mentioned Com-

[52] *Ibid.*, LXXIV, 1324-1329. Also *Parliamentary Papers* 1844 (572) XIV, *Report from the Select Committee on Standing Orders Revision 1844*, August 2, 1844, Order 39a.

[53] *Parliamentary Papers* 1845 (570) XIII, *Report from the Select Committee on Standing Orders Revision 1845*, July 25, 1845, Order 39a. For discussion upon the action taken in 1845, see *The Parliamentary Debates*, 3rd Ser., LXXXII, 1195-1197. One aspect of the operation of this Standing Order may be seen in the information concerning the London and South Western Railway in *The Economist*, December 4, 1847, p. 1411.

[54] *Parliamentary Papers* 1847 (631) XII, *Report from the Select Committee on Standing Orders Revision 1847*, July 7, 1847, Order 126. Also *The Parliamentary Debates*, 3rd Ser., XCIII, 303.

pany shall have completed and opened for traffic such original Lines.[55]

New roads and branch lines for old railways were absorbing too much of the market's capital; competition in amalgamations and mergers was placing heavy financial burdens upon the trunk lines. The industry's pace was too rapid.[56] Parliament did not object to the sale of ordinary shares when the purchasers were willing to wait for a return until the project should be able to pay dividends from earnings; but it was opposed to the use of such stimulants as the payment of interest or dividends on ordinary or preference shares out of capital, the guarantee of a preference dividend by a road whose original line was not open for traffic (except where the money raised by these shares was to facilitate the completion of the original project), and the guarantee of dividends on the shares of one railway by another which was not completely opened for traffic. In the action taken by Parliament there is no indication that preference shares per se were considered iniquitous. Excessive speculation was to be curbed and that meant, among other things, a closer rein upon preference share issues.[57]

[55] *Parliamentary Papers* 1847 (631) XII, Order 130. Also *The Parliamentary Debates,* 3rd Ser., XCIII, 304.

[56] *Ibid.,* pp. 256-261, 295-300.

[57] There are a few references which indicate that the good of the country was not the only end sought by the framers of these parliamentary resolutions. George Hudson, the "railway king," seems to have used his membership in Parliament both to harass lines which competed with his and to assist in retracing unwise steps which had been taken by his own railways. Both the Leeds and Thirsk and the Great Northern railways which competed with Hudson's lines were seriously affected. For interesting items on the former see *Herapath's Railway Magazine,* August 21, 1847, p. 980; September 11, 1847, p. 1060. For the latter road see an article entitled "The Chancellor of the Exchequer's Committee," *ibid.,* June 12, 1847, p. 703; also *The Economist,* August 21, 1847, p. 978; and also Charles H. Grinling, *The History of the Great Northern Railway 1845-1895,* p. 66. For effect on Hudson's roads see *Herapath's Railway Magazine,* August 14, 1847, pp. 926 ff.; December 4, 1847, p. 1368.

Opposition to issues of preference shares generally came only from those who objected to them as an incident and sign of speculation, but occasionally it came from the ordinary shareholders who feared prejudice to their interests. There were a few instances of strenuous shareholder opposition. At a meeting of the proprietors of the Shrewsbury and Birmingham Railway, for example, a stormy discussion occurred upon a motion not to follow a director's proposal, which called for an issue of preference shares. It was past midnight before it was ascertained that 6,332 opposed the motion and 5,401 favored it. Thus there was a majority of 931 in favor of a preference share issue. A resolution authorizing the creation of the new shares was then moved, seconded, and unanimously approved.[58] That the managements were able to win in such contests [59] is somewhat surprising in view of the fact that the law often specified that new issues had to be sanctioned by the holders of a large majority of the existing shares.[60] Questionable tactics on the part of management, unchecked by the courts which were reluctant to interfere in the internal affairs of a company, are to be suspected in some instances.[61]

When shareholder opposition to a preference share issue existed, it was sometimes based upon a professed desire to protect the smaller, poorer shareholder who could

[58] *The Economist,* September 16, 1848, p. 1067.

[59] For an instance of defeat for the directors, see Birmingham and Gloucester Railway, *Herapath's Railway Magazine,* November 2, 1844, p. 1324.

[60] For example, the Chard Canal Act (3 & 4 Vict. c. i, s. 4, March 23, 1840) required for the issue of the preferred the " Consent of Three Fourths in Value of the Proprietors " of the company. In the Dundee and Arbroath Railway the consent of three-fourths in value of only the proprietors present or represented by proxy at a general or special meeting was required. 5 Vict., Sess. 2, c. lxxxiii, s. 3 (1842).

[61] For example: *Edwards* v. *The Shrewsbury and Birmingham Railway Company,* 2 DeG. & Sm. 537 (1849); London and Greenwich Railway, *Herapath's Railway Magazine,* April 20, 1844, p. 456.

not buy his proportion of the new shares.[62] Sometimes the objectors fought for another mode of raising funds, such as the sale of ordinary shares at a discount,[63] or the enforcement of the payment of all calls due on outstanding shares,[64] or the making of further calls upon original shares.[65] Still others resisted because they feared that the creation of shares with a prior claim upon earnings would adversely affect the dividend possibilities of their ordinary shares.[66] Others were in opposition because they did not understand that the existing shareholders were to be given the opportunity to subscribe to the new shares in proportion to their holdings.[67] But almost invariably the new shares were first offered pro rata to the proprietors,[68] though sometimes only to those who had paid all calls on their shares.[69] Of course, if a proprietor subscribed, he was putting more eggs into one basket, but that did not seem to worry him. When, and if, the shareholders failed to take up the full amount on a pro rata basis, anyone who

[62] For example, Hull and Selby Railway, *ibid.*, June 3, 1843, p. 554.

[63] For example, London Cemetery Company, *ibid.*, July 15, 1843, pp. 712-713.

[64] For example, Shrewsbury and Birmingham Railway, *The Economist*, September 16, 1848, p. 1067.

[65] For example, Sheffield and Manchester Railway, *Herapath's Railway Magazine*, September 30, 1843, p. 1016.

[66] For example, London and South-Western Railway, *ibid.*, November 27, 1847, p. 1325.

[67] For example, Glasgow, Paisley, and Greenock Railway, *ibid.*, September 23, 1843, p. 980.

[68] For example: London and Brighton Railway, *ibid.*, August 10, 1844, p. 944; Glasgow, Paisley, Kilmarnock, and Ayr Railway, Scrivenor, p. 655; Midland Counties Railway, *ibid.*, pp. 136-137. A case to the contrary is offered by the North Midland Railway. Shares, sold to raise money for further construction, were "allotted amongst persons locally interested; the remainder to be apportioned amongst the Shareholders of the North Midland Railway." *Herapath's Railway Magazine*, April 20, 1844, p. 439, column 1.

[69] For example, Sheffield and Manchester Railway, Scrivenor, pp. 187-188.

wanted more than his share was allowed to purchase some of the remainder,[70] and then, in case the issue still was not taken, an appeal was made to the public.[71]

How often companies had to appeal to the public for purchasers for newly created preferred stocks cannot be stated.[72] There are, however, a number of reasons for believing that such occasions were not numerous prior to 1850. In the first place, a reading of Herapath's magazine gives the impression that the shareholders usually were willing to take all the new shares. Secondly, in the reports of shareholders' meetings there can rarely be found an admission that the proprietors had failed to take the entire issue.[73] And finally, had there been many appeals to the public it is reasonable to suppose that evidence of such would have remained in the form of prospectuses and advertisements. An examination of many prospectuses in the British Museum brought to light only one dealing with preference shares—that of the Edinburgh and Newhaven Railway which sought in 1843 to sell five per cent preference shares.[74] *Herapath's Railway Magazine,* which was

[70] For example, London and Greenwich Railway, *Herapath's Railway Magazine,* August, 1837, p. 128. The Aberdeen Railway had an unusual scheme for selling its six per cent preference shares. They were to be offered rateably to the proprietors. The unclaimed shares could be purchased by those who had taken the new shares. Should any shares still remain unappropriated, they were to be offered pro rata with an increased dividend of seven per cent to those who had taken their share of the six per cent stock. *The Economist,* January 27, 1849, p. 110.

[71] For example: London and Greenwich Railway, *Herapath's Railway Magazine,* August, 1837, p. 128; Gloucester and Berkeley Canal, *ibid.,* September 21, 1839, p. 138.

[72] For an instance in which proprietors forced preference shares to be sold by public tender rather than either privately or to the large shareholders, see London and Croydon Railway, *ibid.,* August 24, 1844, p. 983.

[73] For admissions, see Birmingham, Bristol, and Thames Junction Railway, *ibid.,* September 14, 1839, p. 113; Taff Vale Railway, *ibid.,* November 2, 1844, p. 1310; Preston and Wyre Railway, *ibid.,* October 16, 1841, p. 882; West London Railway, *ibid.,* April 9, 1842, p. 367.

[74] Item 183 in " Prospectuses, forms of application for shares and other papers relating to railways . . . . and other companies [1800-1856?],"

an excellent medium for those anxious to market railway securities, carried only a very few advertisements in which preference shares were offered for sale.[75]

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part 2 of *A Volume Containing Prospectuses of Joint-stock Companies.* British Museum 1881 b 23.

[75] Preston and Wyre Railway, *Herapath's Railway Magazine,* July 3, 1841, p. 576; December 31, 1842, p. 1340; January 21, 1843, p. 71. West London Railway, *ibid.,* October 22, 1842, p. 1104. Midland Counties Railway, *ibid.,* December 17, 1842, p. 1274. Gravesend and Rochester Railway, *ibid.,* February 12, 1842, p. 145; January 22, 1842, p. 74. For an advertisement offering to buy one Leith and Granton preference share see *ibid.,* August 31, 1844, p. 1009.

CHAPTER VIII

The Nature of Preference Shares

Since authority for an issue of preference shares had to be procured from Parliament if the issue was to be lawful, the statutes which relate to the separate companies are the primary source of information concerning the nature of preference shares. This is particularly true of the earliest period because parliamentary acts at first set forth in much detail the rights and obligations of the holders of such shares. Of course, the statutes were not always clear or comprehensive, so that court decisions, journal editorials and reports of discussions at stockholders' meetings, magazine advertisements embodying resolutions passed at these meetings, and the like must be utilized to record interpretations of parliamentary acts and to indicate the rights and obligations of the preference shareholders in the event that the statutes were silent on particular points. The sources which supplement the statutes of the earliest period become increasingly important when the later preference share issues are studied. This is so, because toward the middle of the nineteenth century companies which procured permission from Parliament to issue preference shares were allowed to attach to the shares such provisions as the stockholders saw fit, and at the same time a number of companies issued preference shares without specific parliamentary authorization. Moreover, in the later period there were more discussions in shareholders' meetings of proposals to issue shares, which were never sanctioned. From such material as that indicated above, the nature of the early preference share has been worked out. Throughout the reading of the chapter it must be borne in mind that an important economic status was acquired by the new shares before a clear legal definition was developed.

The dividends which were promised to the early preference shareholders ranged from five to ten per cent, with five as the most usual figure until the end of 1845 and six the most frequent for the next five years.[1] From about 1808 until 1844 the trend in interest rates was downward as measured by the prices of three per cent consols.[2] This movement suggests that the preferred dividend rates of about 1840 might well have been lower than those of 1825 or 1830, but such was not the case. No trend in preference dividend rates during this period is discernible. Any advantage which accrued to the issuers of preference shares by reason of the fall in the rate of interest—and in fact by reason of any other factor favorable to the companies—was reflected not in lower preference dividend rates, but in a contraction of the other rights of preference shareholders. That the modal dividend rate for preference shares issued between 1845 and 1850 was higher than that of the preceding period is not surprising.[3] Great specula-

[1] See Table F in Appendix.

[2] *Fenn's Compendium,* p. 26.

[3] A definite trend for the rate of preference share dividends for the period immediately following would seem to be indicated by the table given below. The figures are not, however, as significant as they appear to be, since the term preference share must have included what we now call guaranteed stock.

Year	Average interest on: Preference shares	Average interest on: Loans	Average rate of dividend on the whole of the ordinary share capital invested in railways
1848	..	4.62	..
1849	5.63	4.67	1.88
1850	5.61	4.60	1.83
1851	5.26	4.54	2.44
1852	5.21	4.18	2.40
1853	5.002	4.14	3.05
1854	5.01	4.27	3.39
1855	4.92	4.35	3.12
1856	4.78	4.66	3.40
1857	4.86	4.52	3.60

See *Parliamentary Papers* 1854-55 [1965] XLVIII, p. xvii; 1857-58 [2437] LI, p. xiii.

tion in shares and the following sharp recession in prices furnish an adequate explanation.

The " reducible " dividend—a high rate for a specified number of years and a lower one thereafter, or a high rate upon the first payments and a lower one on later calls—is an interesting device which was commonly employed in the 'forties.[4] It was used when there was both difficulty in enticing capital into the railway industry and the feeling that an easier money market would develop in the not too distant future. When recommending such a scheme, the directors of the London and South Western Railway were reported to have said that:

> . . . . as they cannot but be aware that this payment [the deposit required by Parliament] is called for at a time of great pressure, they recommend a more than ordinary rate of remuneration in respect of it, viz., 7 per cent per annum, to be guaranteed as a preferential dividend; . . . . The causes which appear to the directors to justify this rate of remuneration in respect of the deposit do not apply to the remaining payments on the intended new shares, because the directors propose that no call beyond the deposit should be made before the 1st July 1849, before which time it must be anticipated that the money market will have resumed its ordinary condition. On the remainder of each share the directors, therefore, propose that a preferential dividend of 5 *l.* per cent per annum should be payable; . . . . This scheme, in the judgment of the directors, makes adequate provision for the remuneration of that part of the new capital which must be paid at a time of great pressure, whilst it avoids fixing on the present proprietary a permanent burden beyond that rendered necessary by the temporary financial difficulties of the country; . . . .[5]

The more usual reducible dividend provision gave shareholders a certain dividend rate until a definite date and

[4] See Table F in Appendix.

[5] London and South Western Railway, *The Economist,* December 4, 1847, p. 1411.

then a lower return upon the entire sum paid in, regardless of when the company received the money. The Manchester, Sheffield, and Lincolnshire Railway history furnishes an instance of this type. The background of this reducible dividend is somewhat different from that of the London and South Western Railway, just cited. As in the former instance, the money market was such that shareholders could not be expected to respond to calls upon their shares except for small amounts at infrequent intervals. There was, therefore, the prospect of a delay in construction and a great increase in the cost of the road, since Parliament had required that five per cent interest be paid by the company until six months after the opening of its line on all share capital paid in. The company's accountant figured that, if money sufficient to complete the road could be procured at once at six per cent, a saving of £70,000 might be effected. Parliament, however, had blocked the issue of a six per cent preference stock through its recent resolutions which prevented any road from paying dividends out of capital on new shares. Faced with this situation, the directors proposed in 1847 that preference shares be issued; that the dividends upon these should not commence before 1849 by which time the road would have been opened for six months and all interest payments on the ordinary share capital accordingly ceased; that to compensate the purchasers of the new preference shares for the suspension of dividends until 1849 the company should pay on the new shares at the rate of seven and one-half per cent for six years; and that thereafter the shares should bear in perpetuity a preference dividend of six per cent.[6]

Preference dividends were promised for various periods of time: until the original shares should get the same divi-

[6] *Herapath's Railway Magazine,* August 28, 1847, p. 1014.

dend;[7] until the road should be opened for traffic;[8] for ten years or some other definite period;[9] until a certain branch should be constructed;[10] and in perpetuity.[11] A short dividend period is more characteristic of the earliest years. In fact, the comments on preference shares—particularly those made around 1839 and 1840—indicate that only a short dividend period was even considered. The London and Greenwich Railway privileged shares, which had a preference only until the company declared five per cent on all outstanding shares, were frequently commented upon in the journals of that time; but there was never any intimation that the dividends should have been promised in perpetuity or for a long definite period. An extended criticism of the Greenwich Company's method of raising capital was published by the editor of *Herapath's Railway Magazine* in 1839.[12] It was contended that some greater inducement than "a mere preference at common interest subject to a contingency" was necessary to provoke public support. Two modifications of the company's plans were then offered: (1) a guarantee, to the subscribers for the new shares, of double the dividend paid on the original shares until the dividends on the whole capital should be ten per cent; and (2) a guarantee of ten per cent to the new subscribers until a like dividend could be paid on all shares. Thus, both of the suggested alterations in the plan provided for a termination of the

[7] For example: Edinburgh and Glasgow Union Canal, 7 Geo. IV c. xlv, s. 28 (1826); London and Greenwich Railway, 7 Wm. IV c. l, s. 5 (1837).

[8] For example, Taff Vale Railway, 3 & 4 Vict. c. cx, s. 3 (1840).

[9] For example: Whitby and Pickering Railway, 7 Wm. IV c. xxv, s. 6 (1837); Sheffield and Manchester Railway, Robert Arthur Ward, *A Treatise on Investments* . . . . , p.177, note EE.

[10] For example, Great North of England Railway, *Herapath's Railway Magazine,* October 19, 1844, p. 1241.

[11] For example: East and West Yorkshire Junction Railway, Scrivenor, p. 431; Kendall and Windermere Railway, *ibid.,* p. 444.

[12] June, 1839, pp. 291 ff.

distinctions between shareholders—presumably in the near future. Another interesting piece of evidence points to the association of a short dividend period with early preference shares. Persons who in 1840 urged upon the directorate of the Eastern Counties Railway an issue of preference shares assumed that in due course all shares would come into "hotchpotch." [13]

The method of terminating the preference dividend adopted by the Greenwich Company usually proved to be unsatisfactory. In no case is this better illustrated than in that company itself. The directors bought up the privileged shares and, content with a more or less certain five per cent, saw to it that the ordinary shares could not get five per cent and thus destroy their preferential position.[14] The publicity given to the affairs of this company must have had an effect upon the proprietors of other roads. At any rate after 1840, whenever the preferred dividends were not promised in perpetuity, the practice was to make them payable either for a definite number of years or until the completion of the railway.[15] In either event it was expected that the preference shareholder would not become an ordinary one until the road could pay him a return at least equal to his original prior claim. Thus an attempt was made to achieve the same end sought in the Greenwich and other cases, but a method less subject to manipulation by the directors was chosen.

Of course factors other than the unfortunate experience of the Greenwich ordinary shareholders had an effect upon the dividend period. The waning of the initial enthusiasm

[13] *Herapath's Railway Magazine,* September 19, 1840, p. 719; September 26, 1840, p. 740.

[14] Article entitled "Dover and Greenwich Railways," *ibid.,* May 11, 1844, p. 546; and *ibid.,* August 15, 1843, pp. 771 ff.

[15] For example: Manchester and Leeds Railway, *ibid.,* September 25, 1841, p. 840; York and North Midland Railway, *ibid.,* November 2, 1844, p. 1306; Great North of England Railway, Scrivenor, p. 230.

for railways, the increasing demand of the industry for capital, and the realization that the rosy prospects of the promotion era could not be attained easily—all worked for a longer dividend period. Consequently by 1850 preference dividends were almost invariably made perpetual.

In most of the early issues of preference shares there was a definite attempt to assure the payment of the promised dividend. Various devices were utilized to accomplish this end: the shares were made to rank with or ahead of the debt; certain revenues or properties were pledged to guarantee faithful fulfillment of obligations; dividends were made payable out of capital; or dividends which were passed had to be paid in later years before anything could be received by the holders of ordinary shares.

The history of the practice of ranking preferred stock with or ahead of debt can be traced in part in the acts of Parliament. When in 1822 the Gloucester and Berkeley Canal was authorized to issue preference shares, there was the provision that the holders of the new shares should be entitled to a dividend before existing shareholders and " before any Creditor or Creditors of the said Canal Company shall be entitled to receive any Dividend, Interest, or Payment in respect of such other Shares, or in respect of any Mortgage, Bond, Note, Debenture, Annuity, or any other Security or Securities whatsoever . . . . except the Payment of the Annual Interest and the Annual Payments or Installments of Principal now due, or hereafter from Time to Time to become due to " [16] the government in consequence of loans which had been made to the company. A similar, but not so strong, position was offered in 1826 to the holders of new preference shares by the Edinburgh and Glasgow Union Canal. In this case the statute provided that every holder of the new shares,

[16] 3 Geo. IV c. liii, s. 3 (1822).

. . . . after the Payment of the necessary and contingent Expences and Outgoings on and of the said Canal, be entitled *pari passu* with any Creditor upon any of the Debt of the said Company which may eventually remain unextinguished (excepting the Commissioners of Exchequer Bills as hereinafter set forth,) and before any Dividend shall be paid upon any of the original Stock or Shares of the said Company, to draw and receive Interest or a Dividend at the Rate of Two Pounds Ten Shillings *per* Share *per Annum,* . . . .[17]

The next step in the evolution of the status of the preference shareholder from that of semi-creditor to that of unquestioned shareholder can be seen in the Whitby and Pickering Railway Act of 1837. This statute made the preferred dividend payable after the interest on the existing debt, but before the interest on debts incurred subsequent to the issue of the new shares.[18] Finally, by 1839 the preference shareholder had, as a general rule, lost the right to rank ahead of or on a par with the creditor of a company. In the London and South-western Railway Act of that year there was the provision that the preferred dividend was to be paid " subject and without Prejudice to all Mortgages and Bonds made and issued and to be made and issued." [19] Such a provision appeared for a number of years in acts authorizing the issue of preferred stock, until in 1845 the Companies Clauses Consolidation Act provided that " the Interest of the Money borrowed upon any such Mortgage or Bond shall be paid . . . . in preference to any Dividends payable to the Shareholders of the Company." [20]

A pledge of either property or revenue from a particular source was occasionally used to assure the purchaser of

[17] 7 Geo. IV c. xlv, s. 23 (1826). For another instance of the same type of arrangement, see The Southwark Bridge Co. Act, 4 Geo. IV c. cxvi, s. 3 (1823).

[18] 7 Wm. IV c. xxv, ss. 7, 14 (1837).

[19] 2 & 3 Vict. c. xxviii, s. 52 (1839).

[20] 8 & 9 Vict. c. 16, s. 48 (1845).

preferred stock that the promises made concerning his dividend would be fulfilled. A report of a meeting of the shareholders of the Sunderland and Durham Railway held in 1840 contained the statement:

In order to induce persons to buy up the new shares thus created, Mr. Bell proposed, that the capital sum of £60,000 so raised, should be secured on the property of the Railway Company by way of second mortgage, and that the shares should bear interest at 5 per cent per annum from the time of their being paid up.[21]

In the case of the preference shares of the Preston and Wyre Railway Harbour and Dock Company it was advertised in 1843 that:

The Directors are now prepared to ISSUE the REMAINDER of these SHARES, entitling the holders to a priority of dividend of 5 per cent. per annum, payable in the first instance from the net profits of the railway when earned at that rate; in the event of the profits proving deficient, the dividend to be made up to 5 per cent. from the produce of ground rents of the annual value of about £1,000, and other rents of about the same annual value, for which a deed of assignment has been executed, appointing trustees on behalf of the holders of the 1,200 preference shares.[22]

This assignment of ground rents for the purpose of assuring the preference dividend payments came only after several efforts to market preference shares had failed. In July, 1841, shares with a five per cent preference dividend, convertible into ordinary shares when all calls were paid, had been advertised.[23] But according to the directors "the monetary pressure" had prevented their sale. The officers then had procured the shareholders' consent to an issue of ordinary shares at a discount.[24] "The unprecedented depression" contributed not only to the failure of

[21] *Herapath's Railway Magazine,* November 7, 1840, p. 858.
[22] *Ibid.,* January 21, 1843, p. 71.
[23] *Ibid.,* July 3, 1841, p. 576. See also *ibid.,* July 31, 1841, p. 646.
[24] *Ibid.,* October 16, 1841, p. 882.

this effort, but also to another failure to sell preference shares.[25] In April, 1842, the directors admitted that the company could not sell any shares upon the security of the company's funds alone and announced that Sir Hesketh Fleetwood had agreed to place his rents in the hands of the directors to secure a preference share issue.[26] After an apparently unsuccessful attempt to get the holders of the outstanding preference shares to grant a prior preference to the new shares,[27] the latter were advertised in Herapath's magazine in December, 1842.[28] During the following January the more elaborate advertisement reproduced above was printed.

Sometimes when profits were negligible or non-existent, the dividend promised on preferential shares was to be paid out of capital. In 1844 the proprietors of the North Midland Railway, anxious to raise money for further construction, passed resolutions concerning a proposed issue of preferential shares. Among these there was the following:

> 3. During the construction of the line, the interest to be paid out of the subscribed capital.[29]

Whether preference dividends were payable out of capital when there was no express provision to this effect is a moot question. A proprietor of the Northern and Eastern Railway in a shareholders' meeting asked the chairman

[25] *Ibid.,* May 7, 1842, p. 459.

[26] *Ibid.,* p. 480.

[27] *Ibid.,* December 3, 1842, p. 1228; December 10, 1842, p. 1251. The attempt must have been unsuccessful because the advertisements of December, 1842, and January, 1843 (referred to in notes 28 and 22) did not state that the new shares were to have a priority over the outstanding preference shares.

[28] *Ibid.,* December 31, 1842, p. 1340.

[29] *Ibid.,* April 20, 1844, p. 439, column 1. For other illustrations see Great North of England Railway, *ibid.,* October 19, 1844, p. 1241; Hull and Selby Railway, *ibid.,* November 9, 1844, p. 1331; Eastern Counties Railway, *ibid.,* March 13, 1847, p. 357.

whether it was intended to charge the dividends of the proposed preference share issue upon revenue or capital; and in answer it is reported that:

The CHAIRMAN said it would be charged, as a matter of course, on the capital.[30]

The same attitude toward this question was exhibited by the directors of the London and Greenwich Railway. They paid preference dividends when there were insufficient profits even though there was no specific authorization for payments from capital. Perhaps there was a good reason in this case for such action—the directors held a large block of the privileged shares.[31] The attitude of many Greenwich ordinary shareholders, who objected strenuously to the depletion of the capital in this manner, is well summarized in the following passage which is taken from the report of a shareholders' meeting held in 1844:

Mr. Addison contended that the preference shares were liens on the profits, not on the capital of the Company. If by any arrangement the Directors paid interest out of the capital, they did that which the Act did not authorize them to do. A sum of money was authorized to be raised in shares, and dividends were to be paid till the Shareholders got 5 per cent interest. After payment of the creditors, there is a surplus which was termed profits, and which went to the preference Shareholders. Many men of legal eminence had great doubt about the matter. The proper way would be, to pay those who were strictly speaking creditors, out of the profits, and the balance, after paying 5 per cent. on the preference shares, to go to the original Shareholders. The Act of Parliament specified that no creditor should vote at the meetings of the Company; now as the preference Shareholders were in the habit of attending and voting at the meetings of the Company, it clearly showed that they were not creditors—(Hear, hear). He (Mr. Addison) was clearly of opinion that the preference Shareholders were only entitled to a lien on the profits, and

[30] *Ibid.*, February 18, 1843, p. 186.
[31] *Ibid.*, February 4, 1843, pp. 99-100.

if any scrip was not in terms of the Act of Parliament, the Directors were responsible, not the Company—(Hear, hear). He was not going to urge the Company to become repudiators, but he thought they ought to consider the question what the holders of the preference shares were justly and legally entitled to. He would consider it his duty to move that interest and dividends due to preference Shareholders be paid out of the tolls and other profits of the Company. . . . .[32]

The solicitor of the company—and some of the directors as well—took the position that the preference shareholders had a legal right to their interest whether the profits were sufficient to pay it or not. And the deputy-chairman maintained that on equitable grounds the preference dividend ought to be paid since the railway would never have been completed had the holders of these shares not lent their money. But these pronouncements did not satisfy the meeting and a resolution was passed which called for the appointment of a committee to procure the advice of counsel upon the subject.[33]

Pursuant to its instructions, the committee submitted the following question to both Sir Frederick Pollock, then Attorney-General and later Lord Chief Baron of the Exchequer, and to John Stuart, Queen's Counsel at the Equity Bar:

Whether the Directors are warranted in paying dividends to preference Shareholders before all expenses of working and repairing the line are discharged? [34]

The Attorney-General replied:

I am of opinion that the Directors are not warranted in paying dividends to preference Shareholders before the expenses of working and repairing the line are discharged. The payment is, by

[32] *Ibid.*, February 3, 1844, p. 103.

[33] For a report of and comment upon the meeting see *ibid.*, pp. 103, 114, 125.

[34] *Ibid.*, August 17, 1844, p. 950.

the terms of the Acts of Parliament creating the preference shares, to be out of profits, not out of gross receipts.[35]

Mr. Stuart's opinion was to the same effect. Unfortunately for the historian this particular contest between shareholders was not fought to a finish—the road was soon absorbed by another.

Whether legal or not, both preferred and ordinary shareholders often received dividends out of capital. Such statements as the following may be found fairly frequently:

Among the specific points into which the committee [of investigation appointed in 1849 by the shareholders of the Caledonian Railway] will have to inquire, are, the statement of one of the auditors, that in June last, dividends on preference shares were paid out of capital to the extent of 17,235 *l.*; . . . .[36]

Your Directors [that is, the directors of the Newcastle and North Shields Railway who were reporting in 1841 to the shareholders of the road] in conclusion trust that they will not be accused of improper boasting if they add that this railway stands almost single in having paid in the first year five per cent. on the capital, out of the *bonâ fide* profits, and at the rate of six per cent. for the first half of the second year. . . . .[37]

Mr. Gresham [a director of the Hull and Selby Railway, when speaking in 1841 before the shareholders] said. . . . . The question had been asked whether the dividend declared was a fair and *bonâ fide* dividend. Now, to the discredit of some Companies it was the practice to declare fictitious dividends; but this was not the case with regard to the Hull and Selby Railway Company, for the Directors, before they declared any dividend, were thoroughly satisfied that if ever there was a *bonâ fide* one this was it.[38]

Parliament did not develop for the railways a uniform policy concerning the use of capital for the payment of

[35] *Ibid.*
[36] *The Economist,* October 6, 1849, p. 1122.
[37] *Herapath's Railway Magazine,* January 30, 1841, p. 99.
[38] *Ibid.,* March 13, 1841, p. 247.

dividends or interest on shares until 1845. As previously pointed out, there had been a definite procedure with regard to the early canals; but under the stress of circumstances this had been modified toward the close of the eighteenth century.[39] When the growth of the railways revived the practice of making these payments out of capital, Parliament did not at first pursue a uniform course. But when in 1845 speculation in shares increased and it was thought desirable to check the movement, Parliament decreed that no company should declare a dividend which would reduce its capital stock unless the mortgagees and bond creditors gave their consent.[40] A stricter attitude had to be taken in 1847 in consequence of further speculation. The House of Commons resolved that it would not grant any railway the right to pay interest on calls out of capital.[41] The attitude of the House of Commons was voiced by John Lewis Ricardo who considered such payment " a delusion and a snare " since it led people to believe that they were " investing their money instead of speculating." [42] The Standing Order established at this time governed the procedure of the House of Commons until 1882 when the advisability of continuing it was questioned.[43] The result was a modification in the rules in spite of much opposition.

Another method by which the companies tried to assure the purchasers of preference shares that they would be paid dividends was to make the dividends cumulative. The

[39] Ch. vi.

[40] The Companies Clauses Consolidation Act, 1845, 8 & 9 Vict. c. 16, s. 121.

[41] *Parliamentary Papers* 1847 (631) XII, Order 126. Also *The Parliamentary Debates,* 3rd Ser., XCIII, 303.

[42] *Ibid.,* p. 296.

[43] *Parliamentary Papers* 1882 (196) XIII, *Report from the Select Committee on Standing Order 167; together with the Proceedings of the Committee, Minutes of Evidence, and Appendix.* See also Robert W. Perks, *Is it desirable to alter the Law which prohibits Railway Companies from paying Interest out of Capital? Being Notes upon the Report of the Select Committee of 1882 on Standing Order 167.*

use of this device occurred as early as 1826. The Edinburgh and Glasgow Union Canal Act of that year not only ranked the holders of the new preference shares *pari passu* with the creditors, but it made the dividends cumulative.[44] The latter provision may seem to have been somewhat unnecessary, but there are indications in the act that it was hoped, if not expected, that the sale of the new shares would yield sufficient money to pay off the debts. Another interesting preference stock was that authorized by the Whitby and Pickering Railway Act of 1837. The dividends on the preferred shares of this road were to be non-cumulative but payable in preference to interest on mortgages created subsequent to the issue of the new shares.[45]

In contrast to these unusual cases, there were a number of preference share issues upon which the dividends by express provision were either cumulative or non-cumulative and at the same time payable out of net profits. For example, the directors of the West London Railway proposed the issue of shares with a five per cent interest to be paid out of capital only until the completion of the lines and then

> . . . . £ 1 per share, (which is at the rate of 10 per cent. per annum) before any dividend is paid on the old shares. And should the profits fall short of this payment, it is to be made up out of subsequent profits of the concern, whether the old shares receive anything or not.[46]

These shares were not only to be cumulative but were to participate equally with the old in any distribution of profits in excess of five per cent upon the entire capital stock. Upon this plan Herapath's magazine made the following interesting comment:

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[44] 7 Geo. IV c. xlv, s. 23 (1826).

[45] 7 Wm. IV c. xxv, ss. 6, 14 (1837).

[46] *Herapath's Railway Magazine,* October 10, 1840, p. 778. See also *ibid.,* p. 768.

This scheme is one of considerable ingenuity, and is remarkable for the large and defined advantages it gives to the preference shares. In this respect it is much superior to the South-Western plan, and has advantages we do not perceive in any other.[47]

Among the stocks which were definitely non-cumulative was an issue of the Taff Vale Railway. The following appeared in a report of a proprietors' meeting called to consider a proposal to introduce into Parliament a bill which would authorize the issue of preference shares:

The clause, after some discussion, was put and ordered, as amended, to stand part of the Bill—' To give the new Shareholders 5 per cent. every year, if there be so much profit accruing.'—The omission from the clause of the words ' with all arrears thereon,' was, after much discussion, carried, on a division, by 600 to 228.[48]

In all cases so far cited—and in a number of others which might have been mentioned—there was an effort to state the right of the preferred shareholder concerning unpaid dividends. There were, however, many preferred share issues which were sold without any provision on this point. The history of the London and Greenwich Railway furnishes a case in point which is very interesting because there was much argument as to whether the dividends were cumulative.[49] The committee created in 1844 at the request of the shareholders to procure advice upon the legality of paying dividends out of capital was also instructed to determine whether or not the preferred dividends were cumulative. Accordingly this group submitted the following question to Sir Frederick Pollock and Mr. John Stuart:

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[47] *Ibid.*, p. 778. For the features of the South-Western shares of November 20, 1838, see London and South-Western Railway (Gosport Branch) in Table F in the Appendix.

[48] *Herapath's Railway Magazine,* April 13, 1844, p. 403.

[49] See *ibid.*, February 4, 1843, pp. 99-100; February 3, 1844, p. 125.

Whether the preference Shareholders are entitled to arrears of dividend, should any exist, beyond the half-year? [50]

The answers received were:

I am of opinion that the preference Shareholder[s], are entitled to arrears of dividends, should any exists [*sic*] beyond the half-year. The contract between the Company and the preference Shareholders is, in effect, that the latter shall receive 5 per cent. on their money before the original Shareholders receive any dividend, and if the profits for one year be insufficient to pay £5 per cent. for that year, the amount must be made up out of the profits, if and when sufficient for the purpose of future years.
FRED. POLLOCK. Temple.[51]

I incline to think that the preference Shareholders (under 7th William IV.), are entitled to have any deficiency in the full amount of their prior claim to interest, made up out of the profits of succeeding years.
JOHN STUART, Lincoln's Inn.[52]

The directors were of the same opinion and anxious to pay a dividend. Therefore, the chairman of the board said in his report to the shareholders' meeting of August 13, 1844:

Although counsel state that, strictly speaking, no interest nor dividends to the preference Shareholders ought to be paid out of the profits while any debts remain unsatisfied, your Directors, bearing in mind that any arrears of such interest or dividends would accumulate, and that a considerable portion of the surplus property yet remains unsold, and having regard to the general welfare of the undertaking, deem it advisable to recommend that the interest or dividends upon the preference shares, should continue to be paid as heretofore.[53]

[50] *Ibid.*, August 17, 1844, p. 950.
[51] *Ibid.*
[52] *Ibid.*, pp. 950-951.
[53] *Ibid.*, p. 950.

The opinions of Sir Frederick Pollock and Mr. Stuart were echoed by John Whitehead, of the London Stock Exchange, who wrote in 1848:

Opinions are divided as to the Preference Shareholder having claim on the succeeding year's revenue for defalcations in the previous year's. Where, as with the Great Northern B shares, the Act of Parliament states the Preference shall accrue *on the profit made within the year,* it is clear that if the £6 per cent. guaranteed in that case by the A holder to the B holder be not earned in any single year, the profits of the succeeding years cannot be held liable for the short reckoning of the bygone year. Generally speaking, the Preference Share is created with the right at '*per centum per annum,*' which, if it mean anything, establishes an account, and if the revenue of any one year be unequal to the Preference claims on it, the next, or following years, must stand debtors—the ledger account showing a credit which has not been satisfied.[54]

Not until a court decision was rendered in 1857 was there sufficient authority for the statement that preference shares were cumulative in the absence of provision to the contrary.[55] The net revenue of the Great Northern Railway for the half year ending December 31, 1856, had been appropriated, under an act of Parliament, to the purchase of the company's stock in the open market. A contraction in the capital was necessary because there had been an issue of forged share certificates which could not be separated from the bona fide ones. The profits having been absorbed in this manner, the preferred dividend had been passed. Subsequent earnings available for distribution to the proprietors were claimed by the preference shareholders for

[54] John Whitehead, *Guaranteed Securities: Their Merits as Investments Considered,* p. iv.

[55] For cases on this point prior to 1857, see *Stevens* v. *The South Devon Railway Company,* 9 Hare 313 (1851); *Sturge* v. *The Eastern Union Railway Company,* 7 De G. M. & G. 158 (1855); and *Crawford* v. *The North-Eastern Railway Company,* 3 K. & J. 723 (1856).

their dividend arrears.[56] The court, ruling in their favor, stated: that a preference dividend is "*interest* chargeable exclusively on profits"; that if the preference were not cumulative the interests of the directors (being largely common shareholders) and the preference shareholders whom they also represented would be in conflict; and that the preference dividend was an inducement to take the stock and thus the provisions should be construed in favor of the holders of the preferred shares.[57] This decision Whitehead called "the Preference Shareholders' Declaration of Rights." [58] Mihil Slaughter, Secretary of the Railway Department, was less enthusiastic. In the January, 1859, volume of a series which he published under the sanction of the Committee of the Stock Exchange, he wrote:

The Great Northern verdict may or may not be the Bill of Rights contended for by some, or the panacea for all difficulties assumed by others; . . . . speaking generally, the Great Northern decision has undoubtedly enhanced the popular estimate of Railway Preference Share Capital; speaking critically, I apprehend it forms no golden rule, but that each case must, after all, be judged on its own merits and special circumstances.[59]

In 1863 Parliament removed the doubt as to the right to cumulative dividends on preferred stocks issued thereafter by companies governed by the Companies Clauses Act when it provided that such dividends should be non-cumulative. Section 14 of the statute reads:

The Preference Shares or Preference Stock so issued shall be entitled to the preferential Dividend or Interest assigned thereto, out of the Profits of each Year, in priority to the Ordinary Shares

[56] The objecting proprietors were not the holders of the B shares cited in the previous quotation, but the owners of preference shares created subsequently.

[57] *Henry* v. *The Great Northern Railway Company*, 1 De G. & J. 606 (1857).

[58] Whitehead, *Guaranteed Securities*, p. v.

[59] Mihil Slaughter, *Railway Intelligence*, X (1859), p. iv.

and Ordinary Stock of the Company; but if in any Year ending on the Day prescribed in the Special Act, and if no Day is prescribed, then on the Thirty-first Day of *December,* there are not Profits available for the Payment of the full Amount of preferential Dividend or Interest for that Year, no Part of the Deficiency shall be made good out of the Profits of any subsequent Year, or out of any other Funds of the Company.[60]

In addition to the promise of a preferred dividend, sometimes reinforced by provisions designed to assure the fulfillment of the company's obligations, the preference shareholder often possessed many of the rights of the ordinary stockholder. These included unlimited participation in profits, the privilege of voting, and the right to subscribe to new issues.

The right to participate in profits seems to have been so often and so clearly defined [61] that no controversy could be found on the point. In the early part of the period under consideration participating shares were more numerous than the non-participating. Moreover, the latter type was rarely used unless there existed some provision which was designed to assure the preference shareholder that he would receive his dividend. The Gloucester and Berkeley Canal preferred shares of 1822 were non-participating, but the stock outranked most of the debt.[62] The London and South-western preferred issued in 1839 for the construction of the Gosport Branch was likewise non-participating. While these shares did not have precedence over any part

[60] 26 & 27 Vict. c. 118, s. 14 (1863).

[61] For example: Edinburgh and Dalkeith Railway, 10 Geo. IV c. cxxii, s. 6 (1829); Garnkirk and Glasgow Railway, 1 & 2 Vict. c. lx, s. 3 (1838); Glasgow, Paisley, and Greenock Railway (September 13, 1843), Whitehead, *Railway and Government Guarantee . . . .*, pp. 21-22. An unusual provision which gave limited participation was attached to the shares of the North Staffordshire Railway (January 15, 1847), Scrivenor, pp. 502-503.

[62] 3 Geo. IV c. liii, s. 3 (1822).

of the debt, the profits of both the branch and the main lines were applicable to the payment of the dividend.[63] The London and Croydon Thirds, authorized in August, 1844, were not to participate in profits beyond five per cent on the amount paid up, but the dividend was payable out of capital until the opening of the Croydon and Epsom Line.[64] The impression derived from an examination of the earliest preferred stock issues is that participation was readily offered to subscribers except in those cases in which a substantial assurance of income was demanded.

The later part of the period under study stands in contrast to the earlier. The participation privilege was relatively less frequently given, and the non-participation feature was often linked with the right of conversion and sometimes a prohibition as to voting. The proprietors of the Monklands Railway at a meeting held on September 6, 1848, decided to issue new shares

> . . . . to be guaranteed 6 per cent. per annum, on the condition that in the event of the dividend upon the old stock exceeding that per centage the holders of the new shares not to participate in such excess, unless they relinquish their guarantee.[65]

Concerning certain shares of the London, Brighton, and South Coast Railway, it was provided at a meeting held February 17, 1847, that:

> The holders of such shares shall not be entitled to any of the privileges of shareholders, but only to interest at 5 per cent. until they shall have elected to participate in the general dividends of the Company [which was accomplished by electing to become ordinary shareholders].[66]

[63] *Herapath's Railway Magazine,* September 7, 1839, p. 95, note a; cf. 2 & 3 Vict. c. xxviii, s. 52.

[64] *Herapath's Railway Magazine,* August 24, 1844, p. 1007; Scrivenor, p. 276.

[65] *Ibid.,* p. 665.

[66] *Ibid.,* p. 282.

Unrestricted participation in profits was thus held up as a prize which could be acquired only by relinquishing the right to the preferential dividend.

Preferred shareholders were often expressly given the same voting rights as the ordinary shareholders.[67] In those cases in which a definite provision on this point was lacking, it is difficult to state whether or not the preference shares could be voted. But many instances in which the preference shareholders voted were noticed in the material examined for this study, and no cases were found of a denial of the privilege of voting unless the shares had been issued specifically as non-voting shares. Presumably, therefore, preference shareholders could vote if there was no definite provision to the contrary. Until 1847 preference shares which were unquestionably non-voting were very rare. Thereafter, provisions which clearly denied the preferred shareholder the right to vote were frequently used. In other cases after 1847, expressions were employed—particularly the expressions " without any of the privileges of shareholders " and " without further advantage "—which certainly seem to indicate that the preference shareholders could not vote. The citation, just above, concerning the London, Brighton, and South Coast Railway is typical of the cases which used the phrase " without any of the privileges of shareholders "; the following, which was written about the Slamannan Railway, uses " without further advantage."

A resolution was passed, under the act 9 & 10 Vict. c. 151., creating a capital of 7,050 *l.* by the issue of 141 shares of 50 *l.* each, with a guaranteed dividend of 5 per cent., without further advantage.[68]

[67] For example, Birmingham, Bristol, and Thames Junction Railway, 3 & 4 Vict. c. cv, s. 3 (1840).

[68] Scrivenor, p. 663.

In the earliest issues of preferred stock there was nothing said about the right of the holder to subscribe to new issues of stocks or bonds. Such was the case of the London and Greenwich preference shares issued in 1837. Argument arose in the proprietors' meeting of 1839 over the directors' efforts to allow the holders of the shares of '37 to subscribe to a proposed preference share issue. The following is taken from a report of the meeting:

A PROPRIETOR.—The offer, in the first instance, will be made to the holders of the old and the last new shares [that is, the preference shares of 1837]?

THE CHAIRMAN replied in the affirmative.

MR. MONEY said that . . . . He thought that the offer of the new shares should, in the first instance, be made to the original shareholders, and that if any advantage were to be gained, they ought to be the first to participate in it. He was the holder of 700 of the old shares. He was a great sufferer by them, and thought that if there was any mode by which the original shareholders could be remunerated for their losses, they had the first claim upon the directors. . . . .

MR. MOSES A. GOLDSMID said, that the course suggested by the honourable proprietor had not escaped the attention of the Court of Directors, but they thought that it would be a breach of faith towards the holders of new shares, ...

MR. HITCHINGS said he perfectly agreed with the observations made by Mr. Money, but he thought that his plan, if adopted, would be a breach of faith with the new shareholders, and for that reason could not consent to it.[69]

It must not be forgotten that in 1843 and 1844 the directors of the Greenwich Railway were said to be large holders of preference shares. If they were in 1839, the chairman and Mr. Goldsmid were not disinterested advocates and this instance cannot be admitted, without serious qualification, as evidence favorable to the contention that in the

[69] *Herapath's Railway Magazine,* September 28, 1839, p. 149.

absence of express provision preference shareholders did have the right to subscribe to new issues. A lack of more material of the above nature makes it impossible to state the participation rights when statutes, shareholders' resolutions, and share certificates were silent on the point. From 1844 on, there occasionally appeared a preferred stock which had clearly defined rights as to participation in new issues, and in all but a few of these instances the shares were non-participating.[70]

Another group of express provisions which were attached to preference shares includes those which provided for the termination of the dividend priority through conversion and redemption. Whenever the dividend was not promised in perpetuity, preference shares, of course, automatically became ordinary shares upon the expiration of the preferential dividend period. In addition to such instances of automatic conversion, there were some cases in which the preferred shareholder could use his judgment and become an ordinary shareholder if he so desired.[71] The extent to which he exercised this right of voluntary conversion and the reasons for so doing cannot be stated, because of a scarcity of material. Likewise, there is little information available to indicate the reasons which influenced the directors or the proprietors when they gave the preferred shareholder the right of conversion. During the early years such a privilege probably was used as an extra inducement for subscription. Later it was undoubtedly offered in some cases with the object of eliminating the preference shareholder. For example, at a meeting of the proprietors of

[70] See Table F in Appendix.

[71] For example: London and South-western Railway, 2 & 3 Vict. c. xxviii, s. 53; Birmingham, Bristol, and Thames Junction Railway, *Herapath's Railway Magazine,* September 14, 1839, p. 113; Northern and Eastern Railway, Scrivenor, p. 335.

the London and Brighton Railway held February 13, 1846, it was resolved:

That the Directors be empowered, if they saw fit, to receive the remaining 10 *l.* per share on the one-eighth consolidated shares [preference shares created at the meeting of August 9, 1844] on the holders relinquishing the guarantee of 5 per cent.[72]

Dividend priority of preference shares might also be terminated through redemption of the shares. The Redmoor Consolidated Mining Company was one of the few concerns which undertook to apply profits to this purpose. At a meeting held in 1840 it was proposed that any proprietor might pay an additional £2 upon any £5 share which he had, and receive in exchange for his old black certificate a red one.[73] The increase in capital thus obtained had to be repaid out of the profits of the undertaking with interest at five per cent and a bonus of fifty per cent before any division of profits could be made upon the ordinary capital consisting of the £5 shares.[74] The West London Railway Knightsbridge Extension shares, which had a priority as to dividends, also had to be redeemed in certain events.[75] When they were issued in 1844 it was expected that the railway would have to purchase land and other valuable property which later could be sold without injury to the undertaking. The proceeds of such sales were made applicable to the retirement of the Extension shares. Whenever there had accumulated from the resale of property at least £4,000, the directors, with the consent of the proprietors, were to advertise in two

[72] *Ibid.*, p. 279; also *Herapath's Railway Magazine,* February 14, 1846, p. 213.

[73] *Ibid.,* November 7, 1840, pp. 866-867.

[74] The scheme of turning ordinary into preference shares upon the payment of an additional sum had been used previously. For example: Chester Canal, 17 Geo. III c. lxvii (1777); Southwark Bridge, 5 Geo. IV c. clv, s. 1 (1824).

[75] *Herapath's Railway Magazine,* March 9, 1844, p. 283.

London newspapers for shareholders to give notice of the lowest sums for which they would dispose of their shares. The directors were to accept the lowest tenders and apply to the purchase such funds as were available. This operation was to be repeated until all of these preference shares had been retired.

The right to redeem preference shares, as opposed to the obligation to do so, was possessed by the Edinburgh Joint Stock Water Company. This concern in 1819 was authorized to buy the old water works from the city with five per cent preference shares which could be voted only so long as the city owned them and were redeemable in part or whole at the option of the company.[76] The Mid land Railway, likewise, issued preference shares which it could redeem whenever it saw fit to do so. Under the provisions of 9 & 10 Vict. c. cccxxvi, which authorized the amalgamation of the Bristol and Gloucester Railway and the Birmingham and Gloucester Railway with the Midland Company, Parliament permitted the issue of shares entitled to a fixed dividend of six per cent, which were redeemable after 1848 at a premium of fifty per cent.[77]

The only express provision of early preference shares which remains to be considered is that which relates to the right to assets upon dissolution. Little thought seems to have been given to this subject when railway and canal shares were issued.[78] There was no reason to look forward to the break-up of the companies or a sale of part of their assets. Where, however, a company's property was subject to depletion or could be sold in part or whole relatively easily, preference shareholders procured a prior

[76] 59 Geo. III c. cxvi, s. 35 (1819).

[77] 9 & 10 Vict. c. cccxxvi, s. 27 (1846).

[78] For an instance in which preference shareholders were given a prior claim upon assets, see Clarence Railway, *Herapath's Railway Magazine,* October 22, 1842.

claim upon assets. The Redmoor Consolidated Mining and the Great Western Steam Ship companies furnish good illustrations of such concerns.[79]

From the foregoing description of the various preference share provisions, it appears that this type of stock underwent great change during the early years of its use. At first it closely resembled debt—preference dividends were payable before interest, or preferred shareholders ranked *pari passu* with creditors. Such an attitude toward the new type of shares did not disappear quickly, as is indicated by statements appearing in periodicals as late as 1842. For example, the directors of the London and Croydon Railway, when advocating an issue of loan notes, said: "In fact, this plan is much like issuing preference shares for a short time, giving the preference shares 5 per cent. until the time arrives for their conversion." [80] Herapath's magazine stated that the preference shares of the London and South-western Railway (the Gosport shares) were "tantamount to a loan." [81] A director in a meeting of the proprietors of the Eastern Counties Railway Company advocated an issue of new shares "in the nature of debentures similar to those which were created some months ago," that is, similar to the debentures authorized September 29, 1840.[82] This attitude toward preference shares continued so long as they were employed as a means for financing a company faced by some emergency.

As companies which were financially more secure began to issue preference shares, as the uses to which the funds to be raised by such issues became less essential, and as investors became more familiar with the new type of

[79] *Ibid.*, November 7, 1840, p. 867; November 30, 1844, p. 1447.
[80] *Ibid.*, September 10, 1842, p. 948.
[81] *Ibid.*, March 26, 1842, p. 329.
[82] *Ibid.*, March 1, 1842, p. 227; Scrivenor, pp. 330-331.

stock, its nature changed. The elaborate schemes to assure the preference shareholder that the promised dividend would be paid, gave way to the simpler and less effective device of making dividends payable out of profits irrespective of when they were earned; and even this safeguard was being undermined at an early date as non-cumulative preferred stocks were taken by the public. The short uncertain period, for which the early preferred dividend was promised, was displaced by a more definite and longer one. Participation in profits beyond the specified dividend became less frequent with the increasing use of preference shares; voting rights were taken away from the preference shareholders; participation in new issues was the subject of controversy and eventually was reserved for the ordinary shareholders. The conversion of preference into ordinary shares was at first a requirement, then a right given as an extra inducement to persons to take the shares, and finally, a privilege offered only when it was deemed by the ordinary shareholders judicious to encourage the preferential shareholders to relinquish their special status. Finally, as companies outside the public utility field took up the preference share, the rights of the different classes of stock in the event of a sale of assets or a dissolution had to be settled, and the preference shareholder was given a prior claim upon assets. In summary, the British preference shareholder started as a proprietor with special, additional, well-protected, dividend privileges. After passing through a period in which his rights were being defined, he had become by 1850 a shareholder with a weakened prior claim to dividends and shorn of many of the lucrative privileges which he formerly possessed.

CHAPTER IX

Contemporary Opinion of Preference Shares

Generally the proprietors unanimously authorized the creation of shares with a priority of dividend. But after preference shares had been outstanding for some time the attitude of the ordinary shareholder frequently changed.[1] It became clear that his interests were not always the same as those of the preference shareholder; and he did not enjoy the thought of the preferred shareholder being paid more than he, particularly if he had bought his shares early in the company's history and had borne the brunt of its first difficulties. Probably in no company was the divergence of interest between the different classes of shareholders seen so clearly as in the London and Greenwich Railway, since here the conflict was intensified by the fact that the directors were privileged shareholders. Each of the following extracts, taken from Herapath's magazine, reveals one aspect of the hostility which existed between the ordinary and the privileged shareholders of that road.

> Mr. HICHENS then proceeded to make some remarks [at a proprietors' meeting held in January, 1843] . . . . He thought it was rather hard that the original Shareholder should receive only a shilling. It was a mere sop in the pan—one shilling against twenty. He would give the privileged Shareholders all they were entitled to, but not more. They were only entitled to 5 per cent. when the rest of the Shareholders were entitled to receive it. . . . . He was not the man to throw the slightest impu-

[1] See the remarks of the chairman of the Blackwall Railway, *Herapath's Railway Magazine,* July 17, 1841, p. 603. For a specific case see Bolton, Blackburn, Clitheroe, and West Yorkshire Railway, *ibid.,* October 9, 1847, p. 1172.

tation on the Board—he held them to be men of the highest honour, but he did say he would rather see their seats occupied by the holders of unprivileged shares—(Loud cheers). Whatever might be the character of those men, they ought not to be placed in a position where their interest was opposed to their duty. He thought that no Director should sit at that Board, who did not hold five times the amount of unprivileged shares that he did of privileged shares—(Cheers).[2]

At a meeting of the proprietors held later in the same year, Mr. Money, a proprietor, said in part:

Gentlemen, I believe this meeting would long ago have looked into the affairs of this Company if it had not been that there are two different classes of Shareholders, who have felt an interest of a different character in the concern.[3]

In an article which appeared in Herapath's magazine in the spring of 1844 there was the following:

We have received a letter from a holder of near 100 original shares in this mismanaged concern, praying the Shareholders to call a meeting and make an application to Parliament to place all shares on a par, and do away with the preference altogether. He asserts, and very justly we believe, that while the preference exists there is no chance for the original Shareholder, that the preference is the ruin of many individuals and families, and that it was obtained without the knowledge and consent of many Shareholders.[4]

Another article published a little later contained the following:

It is said the privileged Shareholders are against all change of the present system. They cannot, we think, be so unwise. The slightest reflection would tell them that the stability and well-doing of the old Shareholders is their mainstay. If we understand their position rightly they are entitled to 5 per cent. in preference to the original Shareholders until the profits reach 5 per cent.

[2] *Ibid.*, February 4, 1843, p. 99.
[3] *Ibid.*, August 5, 1843, p. 772.
[4] *Ibid.*, March 23, 1844, p. 335.

over the whole capital, and then they are to be placed on the footing of the ordinary or original Shareholders, and be subject to the same fluctuations ever after. Hence the preference holders are anxious that the original holders shall never receive 5 per cent., because then they will secure to themselves a steady interest of five per cent. . . . . But if the Greenwich be leased to the Dover, and the Shareholders be insured five per cent. all around, with an equitable participation of the profits above that sum, the preference shares would have a security and a stability now beyond their reach. It is true, that the original Shareholders will be on a par with them, but can anyone suppose, that this would make any difference, or that the privileged Shareholders would be foolish enough to injure themselves to spite their neighbours? Away with such an idea, it is absurd, and we believe impossible, whatever may have been said of them by their enemies.[5]

In a letter to the editor of Herapath's journal, one who signed himself " Mentor " wrote:

A word more to the preference gents. Your covetousness will defeat you in the end, yield and take a good dividend of 4 per cent. for a year—only one year—and give us something. Consider our unfortunate situation without any dividend.[6]

Though this clash of interests became so intense that an ordinary shareholder advocated a petition to Parliament for permission to abolish all distinctions between shareholders, it was asserted without contradiction that the road could never have been completed without the issue of preference shares.[7] The rescue of other corporations was likewise effected by the issue of preference shares, and there too the ordinary proprietors, with troublous times behind them, complained of the superior rights of the preference shareholders. Such controversies are probably to be ascribed more to the novelty of the preference share than to any other factor.

[5] *Ibid.*, May 11, 1844, p. 546.
[6] *Ibid.*, July 6, 1844, p. 785.
[7] *Ibid.*, February 3, 1844, p. 114.

The contemporary writings of those interested in finance present conflicting opinions concerning the investment value of preference shares. Some strongly advocated purchase; others cautiously suggested that such stocks might not prove to be satisfactory outlets for funds. Many writers warned the ordinary shareholder against their use. In 1847 John Whitehead, of the Stock Exchange, published the fourth edition of a pamphlet entitled *Railway and Government Guarantee.* His thesis was that shares upon which railways guaranteed dividends—that is, both what we call guaranteed and preference shares—were "*as safe* as Government Funds," that such shares were "entitled to *greater favor* than the Government Securities," and that "without exception, for an equal amount invested, *a much larger income*" was to be obtained from the shares.[8] There was little offered to support the contentions; but the author urged immediate investment in guaranteed and preference railway shares, which he thought were selling at very low figures due to "the existing monetary pressure." In addition to the prevalent low prices Whitehead maintained:

> One other consideration which should operate with the investor, and induce decision, is the undeniable fact that Railway Companies will cease, at the earliest moment in their power, to create preferential stocks. Such shares are never desirable, and are only had recourse to from expediency in times of extreme urgency. The companies will therefore always limit the creation of such shares to as small an amount as they can; and as a natural consequence, that amount can never become very considerable. Moreover, as times improve, these preferential shares will advance in value, so as to be purchasable only at rates which, compared with the present, will be very high; and thus, of course, the stock will yield a much lower per centage in consequence of that increased cost, than is to be obtained from it if secured at the present time.[9]

[8] P. 7.
[9] *Ibid.*

It is of course not possible to trace the influence of this pamphlet on the market, but if the author's opinion of his work is to be taken at full value it was large. In the " Note to the Third Edition " (July 10, 1847) Whitehead wrote: " To the Author it is highly gratifying to know, that since and owing to the publication of this pamphlet, very considerable investments have been made in Guaranteed Railway Stocks, which would otherwise, at most unremunerative rates, have been placed in the Funds." [10] As a member of the firm of Carden and Whitehead, stockbrokers, John Whitehead was not necessarily an unbiased advocate of the purchase of preference and guaranteed shares.

The closest approach to a general discussion of preferred shares by the editor of Herapath's magazine appeared in the second [11] of a series of three articles published in 1839 on the subject of raising capital. At that time the editor advocated the use of preference shares with a limited preference dividend period instead of the issue of shares at a discount on the grounds that the former " might not . . . . be a pressure in perpetuity of false capital on the undertaking," while the latter would water the stock. Furthermore, inasmuch as he had in mind the use of shares which should possess a preferred position only until the railway should be profitable, and inasmuch as he assumed a larger number of old shares than new ones, the editor saw another advantage in preference shares, namely, that the directors and ordinary shareholders, in the desire to wipe out the difference between the two classes of shares, would have an incentive to good management. His only objection to preference shares was the difficulty of allotting them among the small holders of the old shares when the new were not equal in number to the old. This disadvantage, however, applied equally as well to shares sold at a

[10] Whitehead, *Railway and Government Guarantee,* p. 10.

[11] *Herapath's Railway Magazine,* June, 1839, pp. 289 ff.

discount, and could be overcome by a public sale of the additional shares. The only other important general comment upon preference shares by the editor of Herapath's magazine is to be found in an 1847 issue in the remarks provoked by the appearance of John Whitehead's pamphlet dealing with railway and government guarantees.[12] At that time the editor wrote in a favorable vein of the great stability in the prices of the preference and guaranteed shares and the large return upon them.

The attitude of Herapath's magazine can also be interpreted from the numerous comments upon particular preference share issues. In many of these cases, however, there is little to assist the investigator. In 1842, for example, the plan of the West London Railway to issue two classes of preference shares was highly commended although no supporting arguments were given.[13] On the other hand, in 1841 the magazine contained the following comment upon a North Midland Railway shareholders' meeting: "We quite agree with them in fixing upon a discount rather than upon preference shares." [14] Again no reason for such a position was offered. But on the whole, an examination of various specific and general comments of Herapath's upon preference shares leads to the impression that such shares were favorably regarded by the magazine, particularly when the dividends were not made perpetual.

There were other financial writers who stressed more heavily the disadvantages of preference shares. Calculations of revenue available for dividends, based upon the

[12] Issue of May 1, 1847, p. 560. A general comment upon preferred shares which is to be attributed either to the editor or to a sharebroker of Hull was to the effect that preference shares, selling at a discount, offered a rare chance to those either " clear of Railway Stock " or possessing only a small amount of it. See *ibid.*, October 9, 1847, p. 1162.

[13] *Ibid.*, April 9, 1842, p. 375; April 23, 1842, pp. 421-422.

[14] *Ibid.*, May 15, 1841, p. 429.

traffic returns of fifty-two railway companies in the United Kingdom for the half year ending June 30, 1849, were published in *The Times* and reprinted in *The Economist.* They showed a balance which would admit of a dividend of rather more than three per cent per annum provided there were no guaranteed rents or preference dividends. An attached comment was as follows:

This general result is, no doubt, much more satisfactory than many shareholders have anticipated, at the same time it warns them against paying very high rates of interest in perpetuity on preference shares, and giving their sanction to extravagant guarantees.[15]

Another article—one which appeared in the August, 1848, issue of *The Bankers' Magazine* under the title "On the Preferable Mode of Raising Additional Railway Capital"—likewise warned the ordinary shareholder against preference shares with perpetual dividend rights. The railways were issuing such shares to procure money with which to pay relatively short term loans as they fell due. Since these new shares, because of the condition of the money market, had to carry a higher dividend than the interest on the maturing loans, the process of substitution meant that a smaller and smaller portion of the earnings would be available for the ordinary shareholders. As a solution for the problem of meeting maturing debts, the article offered the following:

. . . . it may, perhaps, be worthy of consideration, whether it would not be desirable to create shares to meet present emergencies, which, whatever the guaranteed rate of interest they may bear in order to keep them above par in the market, should be compulsorily converted, or paid off at par, within a certain period. The effect of this would be, in all probability, that the existing debt, contracted at low rates would, after a lapse of a few years, be renewed in some shape or other at similar rates; and the

[15] *The Times,* October 23, 1849, p. 7, reprinted in *The Economist,* October 27, 1849, p. 1209.

profits of original, or non-guaranteed shareholders, would not be permanently absorbed in order that a gap might be stopped during a few years of difficulty.

It is possible that, in the present state of the market, very little money could be raised upon shares issued by the best companies at a guarantee of 6 per cent. for five years: but if a 6 per cent. guarantee of that duration would not produce par-value in the market, 7 or 8 per cent. would; and it would be unquestionably better for the general proprietary that some additional sacrifice should be made for a short period, than that their property should be perpetually loaded with a weight which can never be shaken off. It is impossible that the existing drain of money for railway purposes can last many years; and it is equally impossible that a good guaranteed railway stock should not be worth more than par. In a few years a guaranteed stock, which now pays the purchaser 6 per cent., will, very probably, be readily purchased to pay 4½ per cent.; and if perpetual guarantees must be given, it would be well to wait until that time arrives.[16]

The writer apparently was fully conscious of the principle of trading on the equity.

Ward in his book entitled *A Treatise on Investments,* which was first published in 1851 and a year later appeared in a second and enlarged edition, also dwelt upon the same point—the replacement of low interest bearing loans by high dividend paying preferred shares.[17] Moreover, he suggested that preferred shares might not prove profitable for the purchaser due to increases in commodity prices. "All rentals and preferential charges," he wrote, "will become less valuable by any depreciation in gold. . . . ."[18] Ward was fearful of the effect of the gold discoveries in California and Australia upon investments. He recommended that those who intended to lend their money on

[16] *The Bankers' Magazine; and Journal of the Money Market,* VIII (August, 1848), 476.

[17] P. 155.

[18] Ward, *A Treatise on Investments,* p. 110.

mortgage for a period of years should have the power to require payment in silver, "or, what would be still better, that the mortgage should not be redeemed, except by the payment of such a sum of money as would at that time purchase a stated number of quarters of corn." [19] In the case of preferred shares he did not go so far as to suggest a method by which the purchaser could meet a fall in the value of money; he was content to call attention to the risk.

Regardless of the opinions of the ordinary shareholders or the financial writers, the public seemed to like preference shares. Evidence is to be found for this partly in various contemporary statements. The speech of a proprietor at a meeting of the shareholders of the Glasgow, Paisley, and Greenock Railway, held in September, 1843, to consider the issue of preference shares, was reported as follows:

> Stock issued with a preference, as is proposed in the present case, generally bears a premium, and he would expect to make something by his scrip—as he had already done on another line, where the original shares were at a discount, even though it should put him to inconvenience to raise the money for the call.[20]

The Economist in the December 2, 1848, issue made the following comment:

> The railway market has rather improved during the week; but the amount of business has not been large. . . . . What buying there is is chiefly confined to *preference and guaranteed* stocks, which, in consequence, have shown a considerable tendency to improve. These purchases are chiefly for investment.[21]

In order to obtain more definite measures of the attitude of the public toward preference shares, the following tests, based upon stock market quotations, were made. All pref-

[19] *Ibid.*, p. 13.
[20] *Herapath's Railway Magazine*, September 23, 1843, p. 980.
[21] P. 1366.

erence shares which were presented in Scrivenor's *Railways of the United Kingdom Statistically Considered* in the table entitled "Summary of Preference or Guaranteed Shares" were selected. From this group there were chosen those which were quoted in the "Railway Share List" of *The Economist* for May 26, 1849—the issue which was printed at about the date on which Scrivenor's book was published. The market value of each of these shares was then checked against the amount paid in. The result showed that fourteen of the twenty preference shares selected in this way could have been sold for more than the paid-up calls.[22] In contrast, each of the corresponding ordinary shares was selling at a discount.

[22] While these twenty shares formed slightly less than fifty per cent of the total number in Scrivenor's table, they represented almost the entire group in *The Economist's* Share List. The following are the twenty shares:

Par value	Amt. paid in	Preference share	Price
10	10	Caledonian Preference	11 3/8
15	15	Chester & Holyhead Preference	12 7/8
10	10	Eastern Counties New Guar. 6%	11 1/4
6 2/3	6 2/3	" " Exten. 5% No. 1	7 5/24
6 2/3	6 2/3	" " " 5% No. 2	6 7/8
3 1/2	3 1/2	East Anglian (E. & H.) 6% Pref.	1 15/16
6 1/4	6 1/4	East Lancashire 6% Pref. Quarter Shares	7 3/4
10	10	Lancashire & Yorkshire New Guar. 6%	11 15/16
50	5	London and Southwestern New Scrip, 1848, pref.	6 1/16
9	9	London, Brighton, and South Coast Guar. 5% (Late Croydon Thirds)	9 3/4
50	50	ditto. Pref. conv. 5% 1848	53
50	50	ditto. Pref. conv. 5% 1852	53
5	5	ditto. New guar. 6%	6 1/4
25	18	Manchester, Sheffield & Lincolnshire 1/4 shares, No. 1	11
10	10	ditto. New 10 *l*. Pref.	10 7/8
20	20	Norfolk guar. 5%	18 1/2
8	8	Shrewsbury & Birmingham new guar.	9 3/4
10	10	" & Chester 8% pref.	15
25	25	South Devon Pref.	14
25	8	York, Newcastle & Berwick, G. N. E. Purchase Shares	4 7/16

This test suggested a larger one for various periods of time. Wetenhall's share lists provided information on the stock market for a long period, gathered by one agency presumably in a uniform manner.[23] The share lists in the early part of each year were examined for quotations on preference shares. The records of the years, 1811 to 1841 inclusive, contained data on the preference shares of the Commercial Docks, the Southwark Bridge, and other companies; but the material was too scattered to combine. Some figures beginning with the year 1842, however, were taken from Wetenhall's lists and have been entered in Table IX to give yearly comparisons of the prices of ordinary and preference shares. The data of the year 1842 are few, but they are usable because of the uniformity of the picture which they present. By 1849 the preference share quotations are much more numerous. The price of each ordinary share was taken for the same date as that of the preference share in the same company, and the prices (to the closest one-eighth of a pound) were procured for a date as close as possible to January 1 of each year. The price of each stock was then expressed as a percentage of the amount recorded as paid in upon it. These figures are given in Table IX as price ratios.

A study of the summaries at the bottom of the table brings to light some interesting points. In the first place, the median price ratio for the preference shares exceeded the corresponding figure for the ordinary shares in every year except 1846 and 1847. The superiority of the ordinary share at these points is not surprising. The great speculation in railway shares had reached its peak in the autumn of 1845, but the downward movement in share values did not become precipitous until more than a year later.[24] In view of the size of the boom, the market

[23] [J.] Wetenhall, *Course of the Exchange* . . . .

[24] Evans, pp. 1-52, 124.

appraisals of ordinary and preference shares were remarkably close in January, 1846, and also in January, 1847. An examination of the series of highest price ratios in row thirty-seven of Table IX shows that the top for the preferred was always higher than the similar figure for the ordinary shares, and that the prices of preferred shares sometimes reached many times the amounts paid in. A glance at the series of lowest price ratios, row thirty-eight, will reveal that the preference share figure exceeded that of the ordinary share except at the height of the speculative movement and in January, 1848. Row forty of the table shows that with two exceptions the preference share had in each year more instances in which the price exceeded the amount paid in than did the ordinary share. In January, 1843, only one of the ordinary shares treated was selling above the amount paid in; the same was true of the preference shares, but in the latter case there was another stock which was selling for one hundred per cent of the paid-up calls. In January, 1846, speculative activity caused every share in the table to rise above the amount paid in upon it. The last row of the summary part of Table IX shows yearly the number of ordinary and preference share comparisons in which the one or the other particular type of share had a larger price ratio. For example, the Eastern Counties Perpetual No. 2 shares sold about January 1, 1849, at one hundred and two per cent of the amount paid in. On the same day on which the preference share quotation appeared, the ordinary share was selling for only sixty per cent of the amount paid in upon it. Thus, the Eastern Counties Perpetual No. 2 share gave one instance in which the price ratio of the preference share exceeded that of the ordinary. In 1849 the same was true of nineteen other companies. The last row of the table reveals that there were in each year more preference share price ratios which

TABLE IX

Preference share	Year of Issue of Pref. Share[1]	First Appearance of Pref. Share in Wetenhall	1849 Ordinary Share of Same Co. Paid in	Price	Price ratio	1849 Preference Share Paid in	Price	Price ratio	1848 Ordinary Share of Same Co. Paid in	Price	Price ratio	1848 Preference Share Paid in	Price	Price ratio	1847 Ordinary Share of Same Co. Paid in	Price	Price ratio	1847 Preference Share Paid in	Price	Price ratio	1846 Ordinary Share of Same Co. Paid in	Price	Price ratio	1846 Preference Share Paid in	Price	Price ratio
1. Caledonian new 10 *l.* Pref.	1848	Aug. 4, 1848	50	22⅜	45	7½	7½	100	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2. Chester & Holyhead Pref.	1847	Sept. 24, 1847	50	21½	43	15	13¾	92	37½	18⅛	48	12	11⅝	97	..	..	..	..	..	..	..	..	..	..	..	..
3. East Anglian, E. & H., 3½ *l.* sh.	1847	Aug. 24, 1847	25	4¾	19	3½	2⅞	82	25	12⅝	51	2	1⅞	94	..	..	..	..	..	..	..	..	..	..	..	..
4. Eastern Counties, No. 1	1844	Oct. 1, 1844	20	12	60	6⅝	6⅞	104	20	16	80	6⅝	6⅝	100	14¾	23⅛	157	6⅝	7¼	109	14¾	22⅝	153	6⅝	7½	113
5. Do. Perpet., No. 2	1844	Oct. 1, 1844	20	12	60	6⅝	6¾	102	20	15⅝	78	6⅝	6⅜	96	14¾	23	156	6⅝	7⅛	108	14¾	22⅝	153	4⅝	5	108
6. Do. New Guar., 6% Pref.	1848	May 16, 1848	20	12	60	10	11½	115	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
7. East Lancashire, New ¼ sh.	1847	Nov. 5, 1847	25	18½	74	6¼	4¾	76	25	20⅝	83	3¾	2½	67	..	..	..	..	..	..	..	..	..	..	..	..
8. Do. ¼ sh.	1848	June 23, 1848	25	18½	74	6¼	7	112	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
9. Great North of England, New	1844	Jan. 14, 1845	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	100	216½	217	2	28	1400
10. Hull & Selby, ½ sh	1844	Feb. 25, 1845	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	50	104	208	2	21½	1075
11. Do. ¼ sh.	1843	Sept. 12, 1843	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	50	105	210	12½	21	168
12. Lancashire & Yorkshire, 6% Guar.	1848	June 9, 1848	93	72	77	7½	9	120	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
13. Leeds & Thirsk, Pref	1846	Dec. 24, 1846	50	26	52	3½	1½	43	36	20	56	3½	1½	43	17½	16½	94	3½	5⅛	146	..	..	..	..	..	..
14. London & Brighton, Consol. 8's	1844	Feb. 4, 1845	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	50	69	138	35	53	151
15. London, Brighton & South Coast Guar., Late Croydon thirds	1844	..	50	32⅝	65	9½	9¼	97	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
16. Do. Pref. Conv., 1848	1847	May 7, 1847	50	32⅜	65	50	48¾	98	50	43⅛	86	50	46	92	..	..	..	..	..	..	..	..	..	..	..	..
17. Do. Pref. Conv., 1852	1847	..	50	32⅜	65	50	49½	99	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
18. Do. New 5 *l.* Guar.	1848	..	50	32⅜	65	5	5¾	115	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
19. London & Croydon Guar., 5%	1844	Nov. 12, 1844	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	18⅞	23¼	123	8	8⅞	111
20. London & Greenwich, New (later pref. or priv.)	'37&'39	Sept. 14, 1838	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
21. London & South-Western, New 1848	1847	Dec. 19, 1848	50	41¼	83	5	5⅜	108	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
22. Manchester & Leeds, ¼ sh.	1841	Nov. 2, 1841	..	..	..	..	..	..	..	..	..	..	..	..	82	110¼	134	12	16¾	140	76	135¾	179	2	17⅝	881
23. Manchester Sheffield & Lincolnshire, New 10 *l.* pref.	1847	Jan. 18, 1848	100	50	50	10	11	110	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
24. Midland Counties, ¼ sh.	1840	Sept. 22, 1840	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
25. Midland Consol., pref.	[2]	Sept. 3, 1847	100	88½	89	100	115½	116	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
26. Norfolk Exten., 20 *l.* sh.	1846	..	..	..	..	..	..	..	100	90	90	16	15	94	100	128½	129	6	6¼	104	..	..	..	..	..	..
27. Norfolk, 5½%	1847	Jan. 14, 1848	100	47⅛	47	5	4¾	95	100	85	85	5	5⅛	103	..	..	..	..	..	..	..	..	..	..	..	..
28. Northern & Eastern	1843	Feb. 17, 1843	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
29. Sheffield, Ashton-under-Lyne & Manchester, ¼ sh.	1843	Dec. 26, 1843	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
30. Shrewsbury & Chester, 8% pref.	1847	Dec. 21, 1847	18	19	106	10	14½	145	16	17	106	5	8⅛	163	..	..	..	..	..	..	..	..	..	..	..	..
31. South Devon, pref.	1847	Apr. 6, 1847	50	17½	35	25	14⅞	60	40	23¼	58	20	17	85	..	..	..	..	..	..	..	..	..	..	..	..
32. York & Newcastle, pref.	1846	Oct. 30, 1846	..	..	..	..	..	..	..	..	..	..	..	..	25	38¼	153	2	7¾	388	..	..	..	..	..	..
33. York, Newcastle & Berwick, G. N. E. purchase	[3]	Oct. 5, 1847	25	28½	114	8	7⅞	98	25	33⅝	135	8	9	113	..	..	..	..	..	..	..	..	..	..	..	..
34. York & North Midland, exten.	1844	Nov. 19, 1844	..	..	..	..	..	..	..	..	..	..	..	..	50	94	188	20	39½	198	50	112	224	15	41	273
35. Do. Pref.	1846	Oct. 30, 1846	50	52¾	106	10	10¾	108	50	73	146	10	14⅛	141	50	94	188	2	14	700	..	..	..	..	..	..
36. Average (median)	..	..	..	..	65	..	..	101	..	..	83	..	..	96	..	..	154½	..	..	143	..	..	179	..	..	168
37. High	..	..	..	..	114	..	..	145	..	..	146	..	..	163	..	..	188	..	..	700	..	..	224	..	..	1400
38. Low	..	..	..	..	19	..	..	43	..	..	48	..	..	43	..	..	94	..	..	104	..	..	123	..	..	108
39. Total number of items	..	..	..	..	22	..	..	22	..	..	13	..	..	13	..	..	8	..	..	8	..	..	9	..	..	9
40. Per cent of total no above 100%	..	..	..	..	14	..	..	50	..	..	23	..	..	31	..	..	88	..	..	100	..	..	100	..	..	100
41. No. of price ratios in which the specified exceeded the corresponding price ratio	..	..	..	..	2	..	..	20	..	..	4	..	..	9	..	..	3	..	..	5	..	..	4	..	..	5

Preference share	1845 Ordinary Share of Same Co. Paid in	Price	Price ratio	1845 Preference Share Paid in	Price	Price ratio	1844 Ordinary Share of Same Co. Paid in	Price	Price ratio	1844 Preference Share Paid in	Price	Price ratio	1843 Ordinary Share of Same Co. Paid in	Price	Price ratio	1843 Preference Share Paid in	Price	Price ratio	1842 Ordinary Share of Same Co. Paid in	Price	Price ratio	1842 Preference Share Paid in	Price	Price ratio
1. Caledonian new 10 *l.* Pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2. Chester & Holyhead Pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3. East Anglian, E. & H., 3½ *l.* sh.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4. Eastern Counties, No. 1	25	15¼	61	3⅝	4⅝	128	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5. Do. Perpet., No. 2	25	15¼	61	⅝	1⅛	180	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
6. Do. New Guar., 6% Pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
7. East Lancashire, New ¼ sh.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
8. Do. ¼ sh.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
9. Great North of England, New	100	149	149	2	9½	475	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
10. Hull & Selby, ½ sh	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
11. Do. ¼ sh.	50	70	140	10	15⅛	151	50	59⅝	119	4	6⅞	172	..	..	..	..	..	..	..	..	..	..	..	..
12. Lancashire & Yorkshire, 6% Guar.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
13. Leeds & Thirsk, Pref	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
14. London & Brighton, Consol. 8's	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
15. London, Brighton & South Coast Guar., Late Croydon thirds	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
16. Do. Pref. Conv., 1848	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
17. Do. Pref. Conv., 1852	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
18. Do. New 5 *l.* Guar.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
19. London & Croydon Guar., 5%	13¾	16	116	2	2⅝	131	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
20. London & Greenwich, New (later pref. or priv.)	..	..	..	..	..	..	12¾	5½	43	18⅞	17⅞	95	12¾	5¼	41	18⅞	17	90	20	6¼	31	20	17½	88
21. London & South-Western, New 1848	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
22. Manchester & Leeds, ¼ sh.	70	125	179	2	11⅞	594	70	101¼	145	2	7⅞	394	70	72½	104	2	5	250	70	70	100	2	3¾	188
23. Manchester Sheffield & Lincolnshire, New 10 *l.* pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
24. Midland Counties, ¼ sh.	..	..	..	..	..	..	100	87	87	15	21¾	145	100	62¼	62	15	15¼	102	100	85½	86	15	21¼	142
25. Midland Consol., pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
26. Norfolk Exten., 20 *l.* sh.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
27. Norfolk, 5½%	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
28. Northern & Eastern	45	58⅜	130	12½	16½	132	45	52¾	117	12½	14⅞	119	..	..	..	..	..	..	..	..	..	..	..	..
29. Sheffield, Ashton-under-Lyne & Manchester, ¼ sh.	82½	95½	116	8	13	163	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
30. Shrewsbury & Chester, 8% pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
31. South Devon, pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
32. York & Newcastle, pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
33. York, Newcastle & Berwick, G. N. E. purchase	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
34. York & North Midland, exten.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
35. Do. Pref.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
36. Average (median)	..	..	123	..	..	157	..	..	117	..	..	145	..	..	62	..	..	100	..	..	86	..	..	142
37. High	..	..	179	..	..	594	..	..	145	..	..	394	..	..	104	..	..	250	..	..	100	..	..	188
38. Low	..	..	61	..	..	128	..	..	43	..	..	119	..	..	41	..	..	90	..	..	31	..	..	88
39. Total number of items	..	..	8	..	..	8	..	..	5	..	..	5	..	..	3	..	..	3	..	..	3	..	..	3
40. Per cent of total no above 100%	..	..	75	..	..	100	..	..	60	..	..	80	..	..	33	..	..	33	..	..	0	..	..	67
41. No. of price ratios in which the specified exceeded the corresponding price ratio	..	..	0	..	..	8	..	..	0	..	..	5	..	..	0	..	..	3	..	..	0	..	..	3

[1] See Appendix, Table F, item (1) under each company except Midland Couoties, for which see item (2).
[2] Probably the old Midland Counties shares of 1842.
[3] York & Newcastle preference shares became York, Newcastle and Berwick preference shares in August, 1847.

exceeded their corresponding ordinary price ratios than the reverse. The evidence thus all points to a very favorable attitude on the part of the money market toward preference shares.

Attention has been directed, heretofore, to a comparison of the prices of preference and ordinary shares at par-

CHART 1—The Prices of Ordinary and Preference Shares.

ticular times. If the same data used above is considered with special reference to the changing business conditions, other observations are possible. In Chart 1 the median price ratios of Table IX have been plotted with time as the independent variable. It must be remembered that each figure plotted relates to a date close to January 1 of

each year. Thorp's descriptive labels for the business conditions of each year have been written in, so that the courses of prices may be more easily studied.[25] The chart discloses a striking similarity in the movements of the ordinary and the preference shares. This result is parallel to that obtained in a study of the American stock market of recent years.[26] The wider swings of the ordinary shares are likewise comparable to those exhibited in the same study and are certainly what would be expected. Finally, the chart portrays well the fact that preference shares were regarded in the share market as superior to the ordinary shares except in an unusually speculative period.

25 Thorp, pp. 161-162.

26 Laurence H. Sloan, *Security Speculation: The Dazzling Adventure* . . . . , chs. vii, viii.

CHAPTER X

A Summary

Though scattered issues of securities which might be called preference shares can be found in the records of the late seventeenth and early eighteenth centuries, it was not until about 1800, during the period of extensive canal building, that the new type of share gained a firm foothold in British corporation finance. Soon thereafter, the railways gave rise to further need for this method of financing, with the result that by 1850 more than one hundred railway preference shares had been marketed by the companies or at least authorized by Parliament.

Preference shares grew out of the financial embarrassments of the early transportation companies. Such projects were almost invariably started without an adequate understanding of the engineering difficulties to be overcome, and in consequence the construction costs exceeded expectations. In many cases, before the works were completed the original capital had been exhausted. Proprietors were then faced with the alternative of abandoning their enterprise as an almost total loss or pressing on to completion in the hope that the project could eventually be made to pay a reasonable return on an increased capital outlay. To entice new money into an enterprise in such straits would have been difficult under the most favorable circumstances; but circumstances were not most favorable for the early canals and railways. The transportation companies were projected in such large numbers during this period that the demands for capital were tremendous. Moreover, the funds required for each project had to be raised mainly in the region in which it was located. This

meant that often many persons of small means who were unaccustomed to stock ventures had to be solicited for funds. It is true that sometimes a surprisingly wide geographical dispersion of shares existed, but even with this dispersion there was a high degree of local concentration of share ownership. Another factor which made the raising of capital difficult for the early canals and the railways was the fact that money put into such enterprises could not be immediately productive. The time required for construction was at least several years. A final difficulty in finance arose out of the parliamentary limitation of corporate borrowing powers to one-third of the paid-up share capital. These were no mean obstacles for the managers of corporations to overcome.

The situation called for a new type of security. Additional ordinary shares could not be sold at par, and further calls on the outstanding shares would not have been met. Mortgages, annuities, promissory notes, and other debt instruments were not always in high favor because of the difficulties which lenders had experienced in collecting interest and principal. This last factor might have been overcome by offering a high rate of interest; but any type of borrowing was impossible, since the embarrassed companies had already borrowed up to one-third of their share capital, the limit permitted by Parliament. The sale of shares was thus the only device to which these companies could have had recourse if they were to act in a legal manner. But a sale of shares could not have been effected in view of the desperate condition of the companies unless the shares were made attractive to the existing proprietary or the public. Two methods for doing this were developed. One was to sell shares at a discount; the other was to attach a preferential dividend to the new shares. The former had a number of drawbacks. One of the most important of these grew out of the fact that the capital

actually raised did not equal the par value of the shares issued. Borrowing was limited to a certain percentage of the paid-in capital. Thus, if a share issue authorized by Parliament was sold at a discount, not only were the proceeds of the sale reduced by the amount of the discount, but the borrowing power was not increased to the utmost. If the new share and loan capital actually raised was not sufficient to enable the company to complete its works, Parliament had to be petitioned for the privilege of issuing more shares so that the whole process could be repeated. The procurement of a supplementary act from Parliament was costly. The preference share, which could be sold at par or at a smaller discount than an ordinary share, minimized this disadvantage.

There were certain existing practices which facilitated the introduction of the preference share into finance. The policy of paying interest on all shares during construction had been widely used by transportation companies with the result that investors had become accustomed to the idea of a regular specified return upon shares. Such dividends, or interest, had to be paid out of capital rather than earnings, but there was little objection to this before 1847. Another factor which facilitated the introduction of the preference share was the habituation of investors to some types of shareholder classification. The same treatment was not accorded the shareholder who had paid all calls upon his shares and the one who was in arrears; the proprietor who prepaid his calls was likewise put in a different category from the shareholder who simply met his as they came due.

Although the preference share was introduced as a device of emergency finance, the new type of security was soon put to other uses. About 1845 railways began to issue preference shares in order to raise money to construct stations and branch lines. At the same time the proceeds of the

sale of such shares were used to retire loans. In consolidations also the preference share proved useful—sometimes being given by a road to the shareholders of an absorbed line in exchange for the shares of the latter; sometimes being sold to raise the purchase money. Companies outside the public utility field observed the ways in which the railways and the canals were employing preference shares, and they occasionally issued them as appropriate conditions arose.

A change in the nature of the preference share took place with its more frequent use. The new shares were at first viewed as a temporary device, the preference dividend being guaranteed for only a short period at the end of which the financial embarrassments of the issuing company would presumably have disappeared. But the rights of the preference shareholder, as long as he retained his preferential position, were well protected—usually by parliamentary provisions. Gradually the preference share lost its temporary and its debt-like features, and became a share in reality as well as name. At the same time Parliament left to the proprietors the terms of preference. Eventually the stockholders worked out more or less definite distinctions between ordinary and preference shares. This, however, was not accomplished without sharp clashes within the proprietaries. Original shareholders who had in times of stress authorized preference shares with privileges which turned out to be too liberal chafed under this type of shareholder classification. The later users of the preference share profited by the experience of the earlier companies. The result was a diminution in the rights of the preference shareholder. The various schemes designed to assure him that his dividend would be paid were abandoned. These had included a right to dividend payments even prior to the creditor's right to interest, and a pledge of specific property as a guarantee for the regular payment of pref-

erence dividends. Such devices gave way to the less drastic provision that preference dividends if passed would have to be paid in a subsequent year and before the ordinary shares received anything. But even this protection of the preference shareholder was disappearing since some issues were being made non-cumulative. Participation in profits beyond the specified dividend became a less frequent feature of preference shares. Voting rights and participation in new issues of securities were with increasing frequency reserved for the ordinary shareholder. The right to convert preference into ordinary shares was restricted. A preference as to assets had been attached to some shares, but this feature was not widely employed except by companies possessing wasting assets or property which could be sold piecemeal.

In spite of this trend in the nature of the preference share, the public retained a high opinion of this type of security. Comparisons of ordinary and preference share price quotations furnish convincing evidence on this point. The preferred stocks generally sold at a higher premium, or lower discount, as compared with the amounts paid in than the ordinary shares of the same company. While the investment market endorsed the preference share, the contemporary financial writers were not solidly in favor of the new financial instrument. Some authorities held preference shares comparable to government securities on the score of safety and superior in the matter of income. Others warned against the dangers of a fixed income bearing security in view of the possibility of periods of price inflation. Other writers, looking at preference shares from the point of view of the ordinary shareholder, doubted the advisability of creating shares which would permanently bear a high dividend rate.

The legal status of the preference share was undetermined for some time. There was uncertainty as to whether

the preferred dividend was payable out of capital or was simply a charge on profits. In the absence of express provision, the voting rights of the preferred shareholder were in doubt and his right to participate in new security issues was uncertain. Moreover, the first important case concerning the shareholder's right to cumulative dividends was not decided until 1857. Whether or not companies had the right to issue preference shares in the absence of express power was also at first not perfectly clear. As a general rule the companies obtained from Parliament special authority to attach preferential dividends to their shares, but there were a number of instances in which such procedure was not followed. After 1845, when special authority for a preference share issue was not procured from Parliament, the companies had a semblance of authority for such issues in the Companies Clauses Consolidation Act of that year. The courts, however, narrowly interpreted this statute so that preference share issues not specifically authorized by Parliament were illegal even as late as 1863.

Though a clear legal definition for the preference share was slow to develop, the new type of stock rapidly acquired an important economic status. Dependence upon the preference share for capital was particularly apparent in the railway industry, where the new financial device was developed after it had proved successful in allied fields. Authority to issue the first railway preference share was procured from Parliament in 1829. Twenty years later between ten and fifteen per cent of the share capital of the railways of Great Britain was in the form of preference shares. The growth in the use of the new shares was not uninterrupted. Periods of depression were usually characterized by numerous new preference share issues. Another factor which affected the increase in the use of the new shares was the attitude of Parliament. This body

apparently showed no reluctance until 1847 to sanction an application for power to issue preference shares. In the late 'forties, however, restrictive legislation was passed in an effort to curb speculation. The growth in the use of preference shares was thereby retarded, but the trend was still distinctly upward. By the middle of the nineteenth century the preference share was firmly imbedded in the financial structure of the British railways. Its use was growing in other fields, but its adoption there forms another chapter in the history of corporation finance.

APPENDIX

TABLE A

Shares of the Leeds and Liverpool Canal which were not Original Shares, January 1, 1789 [1]

Number of original shares held	New Shares [2]				Liverpool New Shares [3]			
	Shareholders		Shares		Shareholders		Shares	
	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent
Less than 1 share........	12	12.0	38.	19.3	1	4.8	1.25	5.0
1–5 incl...............	57	57.0	56.8	28.8	15	71.4	12.5	49.5
Over 5–10 incl.........	17	17.0	35.85	18.2	3	14.3	3.5	13.9
Over 10–15 incl.........	2	2.0	2.	1.0	1	4.8	3	11.9
Over 15–20 incl.........	5	5.0	14.5	7.3	1	4.8	5	19.8
Over 20–25 incl.........	2	2.0	18.	9.1				
Over 25–103 incl.......	5	5.0	32.25	16.3				
All classes	100	100.0	197.4	100.0	21	100.1	25.25	100.1

[1] These shares were the "New Shares" and the "Liverpool New Shares." It should be noted that no one held both kinds of additional shares. Moreover, very few of the holders of five or less original shares held more than two of the additional shares.

[2] New Shares were described as follows: "Each of these is 100 *l. New Subscription; the Amount of which, including the Interest made Stock to the 1st January 1779, is 139l. 8s. 9d.*"

[3] These shares were described as follows: "*These are each* 100 *l. of a particular Subscription, entered into at Liverpool; which being paid sometime after the New Subscription above mentioned, are of inferior Value: the Amount of a Liverpool New Share, with Interest, as above, is* 105 *l.* 19 *s. 4d.*"

TABLE B

HOLDINGS OF THE ORIGINAL SHARES OF THE LEEDS AND LIVERPOOL CANAL, AUGUST 1, 1795

No. of shares	Shareholders		Shares	
	Number	Per cent	Number	Per cent
Up to 5 incl.	363	79.8	822.5	36.3
Over 5–10 incl.	54	11.9	421.0	18.6
Over 10–15 incl.	15	3.3	196.3	8.7
Over 15–20 incl.	4	.9	69.7	3.1
Over 20–25 incl.	5	1.1	116.0	5.1
Over 25–92 incl.	14	3.1	638.0	28.2
All Classes	455	100.1	2263.5	100.0

TABLE C

HOLDINGS OF THE ORIGINAL SHARES OF THE LEEDS AND LIVERPOOL CANAL, JANUARY 1, 1800

No. of shares	Shareholders		Shares	
	Number	Per cent	Number	Per cent
Up to 5 incl.	363	73.9	878.56	30.9
Over 5–10 incl.	73	15.0	523.97	18.4
Over 10–15 incl.	20	4.1	263.50	9.3
Over 15–20 incl.	14	2.9	251.50	8.8
Over 20–25 incl.	4	.8	94.33	3.3
Over 25–123 incl.	17	3.5	832.50	29.3
All Classes	491	100.2	2844.36	100.0

TABLE D

GEOGRAPHICAL DISTRIBUTION OF THE HOLDINGS OF LEEDS AND LIVERPOOL CANAL ORIGINAL SHARES, 1795

Locality	Shareholders		Shares	
	Number	Per cent	Number	Per cent
Berkshire	1	.2	12	.5
Cambridgeshire	2	.4	10	.4
Cheshire	1	.2	1	.0
Cornwall	1	.2	2	.1
Cumberland	..	..	..	..
Derbyshire	7	1.5	12.5	.6
Devonshire	..	..	..	..
Dorsetshire	..	..	..	..
Essex	6	1.3	62	2.7
Gloucestershire	1	.2	1	.0
Hampshire	4	.9	4	.2
Kent	4	.9	21	.9
Lancashire	87	19.1	325.5	14.4
London & Middlesex	79	17.4	541	23.9
Norfolk	21	4.6	356	15.7
Northamptonshire	1	.2	1	.0
Nottinghamshire	10	2.2	19	.8
Rutlandshire	3	.7	9	.4
Shropshire	1	.2	1	.0
Somersetshire	2	.4	3	.1
Staffordshire	1	.2	3	.1
Suffolk	2	.4	23	1.0
Surrey	5	1.1	23	1.0
Warwickshire	4	.9	9	.4
Westmoreland	2	.4	5	.2
Wiltshire	2	.4	95	4.2
Worcestershire	2	.4	5	.2
Yorkshire	205	45.1	718.5	31.7
Unclassified	1	.2	1	.0
Total	455	99.7	2263.5	99.5

TABLE E

GEOGRAPHICAL DISTRIBUTION OF THE HOLDINGS OF LEEDS AND LIVERPOOL CANAL ORIGINAL SHARES, 1800

	Shareholders		Shares	
Locality	Number	Per cent	Number	Per cent
Berkshire	1	.2	15.	.5
Buckinghamshire	1	.2	5.	.2
Cambridgeshire	2	.4	12.	.4
Cheshire	1	.2	1.25	.0
Cornwall	1	.2	2.5	.1
Cumberland	..	..	..	..
Derbyshire	6	1.2	10.5	.4
Devonshire	..	..	..	..
Dorsetshire	..	..	..	..
Essex	6	1.2	84.	3.0
Gloucestershire	1	.2	1.	.0
Hampshire	6	1.2	16.75	.6
Hertfordshire	2	.4	11.5	.4
Kent	5	1.0	88.5	3.1
Lancashire	89	18.1	401.75	14.1
London & Middlesex	76	15.5	564.13	19.8
Norfolk	26	5.3	404.75	14.2
Northamptonshire	1	.2	1.	.0
Northumberland	1	.2	2.25	.1
Nottinghamshire	10	2.0	24.5	.9
Rutlandshire	3	.6	11.	.4
Shropshire	1	.2	2.	.1
Somersetshire	4	.8	23.75	.8
Staffordshire	1	.2	4.	.1
Suffolk	2	.4	28.75	1.0
Surrey	8	1.6	45.25	1.6
Warwickshire	3	.6	9.	.3
Westmoreland	2	.4	5.5	.2
Wiltshire	3	.6	106.	3.7
Worcestershire	2	.4	6.	.2
Yorkshire	223	45.4	900.71	31.7
Unclassified	4	.8	56.	2.0
Total	491	99.7	2844.34	99.9

TABLE F

RAILWAY PREFERENCE SHARES, 1829-1849

TOGETHER WITH SOME OF THE EARLY CANAL, BRIDGE, AND DOCK SHARES OF THE SAME TYPE, AND A FEW SIMILAR CONTEMPORARY BANK AND MINING STOCKS

In this table, the salient known facts concerning the various preference shares—which have been arranged according to date of issue—are listed as follows:

Name of issuing company
- (1) Date of proprietors' meeting authorizing preference shares and the amount of the issue.
- (2) Parliamentary act authorizing preference shares and the amount authorized by Parliament.
- (3) Purpose of preference share issue.
- (4) Preference dividend rate.
- (5) Preference dividend period.
- (6) Cumulative feature of the preference share.
- (7) Dividend participation of the preference share.
- (8) Convertible feature of the preference share.
- (9) Voting rights of the preference share.
- (10) Miscellaneous remarks.

In giving the references for the above information, the following abbreviations have been employed:

B. .... *Bradshaw's Manual* of 1848 unless another number is specified, as B. 1850.
B.M. ..... *The Bankers' Magazine; and Journal of the Money Market.*
Ec. .... *The Economist.*
Gr. ...... Grinling's *The History of the Great Northern Railway 1845-1895.*
H. .... *Herapath's Railway Magazine.*
Preamble .. Preamble of the statute specified in (2).
P. .... Priestley's *Historical Account of the Navigable Rivers, Canals, and Railways, of Great Britain.*
S. .... Section of the statute specified in (2).
Sc. .... Scrivenor's *The Railways of the United Kingdom Statistically Considered.*
SRSM .... *The Scottish Railway Shareholder's Manual.*
W. ...... Whitehead's *Railway and Government Guarantee.*
Wa. ...... Ward's *A Treatise on Investments.*

1. Chester Canal
    (2) 1777, 17 Geo. III c. lxvii.
    (3) To complete canal. Preamble.
    (4) 5%. Act cited in (2).
    (5) Until completion of works and until company could pay 5% on original shares on which par had been paid. Act cited in (2).
    (9) Same as original shares. Act cited in (2).
    (10) Preference shares created in connection with effort to procure call on shares in excess of par. Act cited in (2). Preference share issue unsuccessful. 18 Geo. III c. xxi.
2. Horncastle Navigation
    (2) 1800, 39 & 40 Geo. III c. cix.
    (3) To complete works and to discharge debts. Preamble.
    (4) 6%. S. 12.
    (7) Participating. S. 12.
    (10) Preference dividend also offered to old shareholders who paid on their shares double the par value. S. 12.
3. Aberdeenshire Canal
    (2) 1801, 41 Geo. III c. iii.
    (3) To pay debts due and to complete canal. S. 1.
    (4) 10%. S. 2.
    (6) Non-cumulative. S. 2.
    (7) Participating. S. 2.
    (9) Same as original shares. S. 6.
    (10) Preference shares given same powers as original shares. S. 3.
4. Commercial Docks
    (2) May 14, 1811, 51 Geo. III c. lxvi.
    (3) To complete docks. Preamble.
    (4) 5%. S. 2.
    (5) One year. S. 2. See also 57 Geo. III c. lxii, s. 12.
    (7) Non-participating for one year. S. 2.
    (10) By 1817 company had raised £40,000 by preference shares out of £130,000 authorized. 57 Geo. III c. lxii, preamble.
5. Commercial Docks
    (2) July 7, 1817, 57 Geo. III c. lxii.
    (3) To complete works. Preamble.
    (4) Up to company. S. 13.
    (5) Up to company. S. 13.
    (7) Non-participating. S. 13.
    (10) Preference shares could be sold at a discount. S. 13.
6. Edinburgh Joint Stock Water Co.
    (2) July 2, 1819, 59 Geo. III c. cxvi. £30,000. S. 4.
    (3) To buy existing water works from city. S. 35.
    (4) 5%. S. 4 and S. 35.

(7) Non-participating. S. 4.
(9) Votable when in city's possession. S. 35.
(10) Preference shares redeemable at option of company. S. 35.

7. Gloucester & Berkeley Canal
   (2) May 24, 1822, 3 Geo. IV c. liii.
   (3) To complete and maintain canal and other works, to discharge debts and interest, and to deepen canal. Preamble.
   (4) & (5) 10% after March, 1825, and 5% interest until that date. S. 3 and S. 4.
   (7) Non-participating. S. 3.
   (9) Same as ordinary shares. S. 2.
   (10) Preference shares outranked existing debt except that due government. S. 3.

8. Southwark Bridge
   (2) June 27, 1823, 4 Geo. IV c. cxvi. £150,000. S. 1.
   (3) To complete works around bridge. Preamble.
   (4) Up to 7½%. S. 1.
   (10) 4 Geo. IV c. cxvi made certain the legality of previously issued preference shares. Preamble. £85,000 raised by preference shares. 5 Geo. IV c. clv, preamble. Preference shares non-participating in new issues. *Ibid.*, s. 1. Preference shares on same footing as mortgages. S. 3.

9. Southwark Bridge
   (2) June 24, 1824, 5 Geo. IV c. clv. £65,000. Preamble.
   (3) To complete roads and other works. Preamble.
   (4) Same as previously issued preference shares. S. 1 and S. 2.
   (7) Participating. S. 1.
   (10) This preference share issue ranked equally with the previous one. S. 1. and S. 2.

10. Edinburgh & Glasgow Union Canal
   (2) May 5, 1826, 7 Geo. IV c. xlv. £60,000. S. 11.
   (3) To discharge obligations. S. 29.
   (4) 5%. S. 23.
   (5) Until original shares receive same dividend. S. 28.
   (6) Cumulative. S. 23.
   (7) Participating. S. 12 and S. 24.
   (9) Same as ordinary shares. S. 12.
   (10) Preference shares ranked with debt except the amount due government. S. 23. These shares called "new shares." S. 28.

11. Leominster Canal
   (2) May 26, 1826, 7 Geo. IV c. xciv. £60,000. S. 2.
   (3) To complete canal and to discharge debts. Preamble.

12. Portsmouth & Arundel Navigation
   (2) May 23, 1828, 9 Geo. IV c. lvii. £50,000. S. 3.
   (3) To repair and to complete works. Preamble.

(4) & (5) 6% for ten years and thereafter 5% in perpetuity if profits had not reached a certain amount. S. 8, S. 10, and S. 11.
(6) Cumulative for ten years at least. S. 10 and S. 11, also P. 531.
(7) Non-participating. S. 8.
(9) Same as ordinary shares. S. 3.
(10) Preference dividends to be paid from profits. S. 8 and S. 10.

13. Thames Tunnel
(2) May 23, 1828, 9 Geo. IV c. lxiii.
(3) To complete tunnel. Preamble.
(4) Up to company. S. 5.
(10) Company given right to determine preference share provisions. S. 5.

14. Edinburgh & Dalkeith Railway
(2) June 4, 1829, 10 Geo. IV c. cxxii. £54,875. S. 3.
(3) To complete line and secondarily to construct a branch. Preamble.
(4) 5% or less. S. 6.
(6) Non-cumulative. S. 6.
(7) Participating. S. 6.
(10) These shares given "Right to Preference or Priority." S. 6. Preference dividends payable out of profits. S. 6.

15. Dundee & Newtyle Railway
(2) May 29, 1830, 11 Geo. IV c. lx. £10,000. S. 2.
(3) To complete line, expenses having been in excess of estimates. Preamble.
(4) 5% or less. S. 4.
(6) Non-cumulative. S. 4.
(7) Participating. S. 4.
(10) Rights and privileges of preference shares same as those of original shares. S. 2. Preference dividends payable out of profits. S. 4.

16. Carmarthenshire Railway
(2) June 27, 1834, 4 & 5 Wm. IV c. lxx. £12,000. S. 2.
(3) To make necessary alterations and improvements. S. 2.
(4) 5%. S. 4.
(10) These shares given "Priority over" existing shares "in respect of Dividends." S. 4.

17. Whitby & Pickering Railway
(2) May 5, 1837, 7 Wm. IV c. xxv. £30,000. S. 2.
(3) To discharge debts incurred in completing works. Preamble.
(4) 5% or less. S. 6.
(5) Ten years. S. 6.
(6) Non-cumulative. S. 6.

(9) One vote per share. S. 5.
(10) Preference dividends to be paid from funds applicable to dividend payments. S. 6. Preference shares given priority over mortgages created under this act. S. 14.

18. London & Greenwich Railway
(1) Between August and October, 1837, H. 1837, 128, 314.
(2) June 8, 1837, 7 Wm. IV c. l. £150,000. S. 2. Plus £50,000. S. 4.
(3) To complete the works. H. 1837, 36, 108, 109.
(4) 5% or less. S. 5. 5%. H. 1837, 36, 128, 314.
(5) Until all shares receive 5%. S. 5, also H. 1837, 36, 128, 314.
(9) Same as ordinary shares. S. 5.
(10) Preference dividends to be paid out of rates, tolls, and other revenues. S. 5. Preference shares participated in new issues. H. 1839, 149.

19. Durham Junction Railway
(2) July 3, 1837, 1 Vict. c. xcvii. £12,000. S. 9.
(3) To make a branch railway. Preamble.
(10) Preference dividends payable out of profits. S. 9. Preference shares could be issued "subject to such Restrictions as to Participation in Profits and such Regulations as the said Company shall see fit." S. 9.

20. Garnkirk & Glasgow Railway
(2) July 4, 1838, 1 & 2 Vict. c. lx. £89,198 6*s.* 9*d.* S. 1.
(3) To discharge debts incurred in constructing line. Preamble.
(4) Up to 5%. S. 3.
(7) Participating. S. 3.
(9) Like ordinary shares. S. 3.

21. Newtyle & Coupar Angus Railway
(2) July 4, 1838, 1 & 2 Vict. c. lxi. £15,000. S. 2.
(3) To pay debts and to complete and improve line. Preamble.
(4) 5% or less. S. 7.
(6) Non-cumulative. S. 7.
(7) Participating. S. 7.
(10) Preference dividends payable from profits. S. 7. Preference shareholders given same rights as original proprietors. S. 2.

22. London & South-Western Railway
(1) November 20, 1838, £300,000. Sc. 251.
(2) June 4, 1839, 2 Vict. c. xxviii. £300,000. S. 49.
(3) To construct Gosport Branch. Preamble, also Sc. 251.
(4) 5%. S. 52, also Sc. 251.
(5) Perpetuity. S. 52 and S. 53, also Sc. 251.
(7) Non-participating. S. 52 and S. 53, also Sc. 251.
(8) Convertible at completion of branch. S. 52 and S. 53, also Sc. 251.

(10) Preference dividends payable from profits of both branch and main lines. H. 1839, 95 n.

23. Preston & Wyre Railway Harbour & Dock Co.
    (1) January 21, 1839, £170,000. H. 1839, 676, 677.
    (2) March 27, 1839, 2 Vict. c. i.
    (3) To perfect railway. H. 1839, 676, 677.
24. Birmingham, Bristol & Thames Junction Railway
    (1) August 7, 1839, £50,000. H. 1839, 113.
    (3) To complete works. H. 1839, 113.
    (4) & (5) 5% until one year after opening of line, and then 2½% on nominal value in perpetuity. H. 1839, 113.
    (8) Convertible. H. 1839, 113.
    (10) These preference shares issued at a discount. H. 1839, 113.
25. Gloucester & Berkeley Canal
    (1) September 13, 1839, £164,000. H. 1839, 138, 139.
    (3) To pay exchequer loan. H. 1839, 138, 139.
    (10) Called "Preference shares." H. 1839, 138.
26. London & Croydon Railway
    (2) June 4, 1839, 2 Vict. c. xviii. £100,000. S. 2.
    (3) To complete line. Preamble.
    (4) Up to 5%. S. 6.
    (5) Until all shares receive same dividend. S. 6.
    (9) Like ordinary shares. S. 2.
    (10) Preference dividends payable from rates, tolls, and other revenues. S. 6.
27. London & Greenwich Railway
    (1) September 27, 1839, £60,000. H. 1839, 159.
    (2) June 4, 1839, 2 Vict. c. xix. £60,000. S. 3 and S. 5.
    (3) To raise additional money. Preamble.
    (4) Up to company. S. 3. 5%. H. 1839, 159.
    (5) Up to company. S. 3.
    (9) Same as original shares. S. 3.
    (10) Preference shares issued at a discount. Sc. 289, also H. 1839, 159.
28. Deptford Pier Junction Railway
    (2) July 19, 1839, 2 & 3 Vict. c. lxxvi. £40,000. S. 2.
    (4) Up to 5%. S. 3.
    (10) Preference shares could be sold at a discount. S. 2. Preference shares to have same rights as other shares. S. 2.
29. Arbroath & Forfar Railway
    (1) October, 1839. H. 1839, 174. £40,000. Sc. 562.
    (2) April 3, 1840, 3 Vict. c. xiv. £50,000. S. 2.
    (3) To complete works. Preamble, also H. 1839, 174.
    (4) Up to 5%. S. 8. 5%. Sc. 562, also H. 1839, 174.
    (7) Participating. S. 8, also H. 1839, 174
    (9) Same as original shares. S. 2. and S. 8, also H. 1839, 174.

30. Chard Canal
    (2) March 23, 1840, 3 Vict. c. i. £80,000. S. 3.
    (3) To complete works. Preamble.
    (4) 5%. S. 4.
    (6) Cumulative. S. 4.
    (7) Participating. S. 4.
    (10) Preference dividends payable out of net profits. S. 4. Preference shares could be sold at a discount. S. 3.
31. Duffryn, Llynvi & Porth Cawl Railway
    (2) June 19, 1840, 3 Vict. c. lxx. £30,000. S. 13.
    (3) To complete pier etc. and to repair and maintain railway. Preamble and S. 19.
    (4) Up to 5%. S. 16.
    (7) Participating. S. 16.
    (9) Same as original shares. S. 18.
32. Taff Vale Railway
    (1) August 5, 1840. Sc. 542. £165,000. H. 1840, 593, 615.
    (2) July 23, 1840, 3 & 4 Vict. c. cx. £165,000. S. 2.
    (3) To complete undertaking. Preamble, also H. 1840, 593.
    (4) Up to 5%. S. 3. 5%. Sc. 542, also H. 1840, 593, 615.
    (5) Up to company. S. 3. Preference dividends made perpetual. Sc. 542, also H. 1841, 74, 75.
    (7) Participating. 7 & 8. Vict. c. lxxxiv, s. 23.
    (9) Same as original shares. S. 2.
    (10) Preference shares sold at a discount. Sc. 542, and H. 1841, 244. Legality of preference shares assured in 7 & 8 Vict. c. lxxxiv.
33. Midland Counties Railway
    (2) August 10, 1840, 3 & 4 Vict. c. cxxx. £200,000. S. 2 and S. 4.
    (4) Up to company. S. 2.
    (5) Up to company. S. 2.
    (10) Preference share provisions up to company. S. 2.
34. West London Railway
    (1) October 7, 1840, £60,000. H. 1840, 766.
    (2) July 23, 1840, 3 & 4 Vict. c. cv. £60,000. S. 3. Plus £15,000. S. 5.
    (3) To complete line. H. 1840, 768.
    (6) Cumulative. H. 1840, 766.
    (7) Participating. H. 1840, 766.
    (9) Voting. S. 3.
    (10) These shares called "Preferred shares." H. 1840, 766. Preference shares could be issued on such terms as company saw fit. S. 3. Preference dividends payable out of capital if necessary until April, 1842, and then out of profits. H. 1840, 766. These preference shares not sold. H. 1842, 278, 367.

35. Redmoor Consolidated Mining Co.
    (1) November 4, 1840. H. 1840, 866.
    (4) 5%. H. 1840, 867.
    (10) Preference shares redeemable. H. 1840, 867. Preference shares preferred as to assets. H. 1840, 867.
36. Preston & Wyre Railway Harbour & Dock Co.
    (1) June 23, 1841, £200,000. H. 1841, 576.
    (4) 5%. H. 1841, 576.
    (5) Perpetuity. H. 1841, 576.
    (8) Convertible. H. 1841, 576.
    (10) Efforts to sell these preference shares unsuccessful. H. 1841, 882.
37. Manchester & Leeds Railway
    (1) September 16, 1841, £487,500. H. 1841, 840.
    (2) May 18, 1841, 4 Vict. c. xxv. £487,500. S. 2.
    (3) To complete works. Preamble.
    (4) 10%. H. 1841, 840.
    (5) Five years. H. 1841, 840.
    (9) Same as original shares. S. 7.
    (10) Preference share conditions apparently up to company. S. 6.
38. Gravesend & Rochester Railway
    (1) January, 1842, £150,000. H. 1842, 74.
    (3) To convert canal into a railway. H. 1842, 74, also Prospectus.
    (4) 5%. H. 1842, 74, also Prospectus.
    (5) Perpetuity. H. 1842, 74.
    (6) Probably cumulative. Ec. 1847, 663.
    (8) Convertible twelve months after opening railway. H. 1842, 74, also Prospectus.
    (10) Preference dividends payable out of capital until opening of line, and then out of profits. H. 1842, 74.
39. Sheffield, Ashton-under-Lyne & Manchester Railway
    (1) January 12, 1842, about £40,000. H. 1842, 50, and 81.
    (2) May 13, 1842, 5 Vict., Sess. 2, c. xviii. For amount see S. 4.
    (3) To complete road. Preamble. To permit company to borrow. H. 1842, 81.
    (4) 5%. H. 1842, 50.
    (5) Ten years. H. 1842, 50.
    (9) Same as original shares. S. 4 and S. 6.
    (10) Shares could be issued upon such terms as company saw fit if existing shares were not selling at a premium. S. 6.
40. Preston & Wyre Railway Harbour & Dock Co.
    (1) April 30, 1842. H. 1842, 480. £30,000. H. 1843, 71.
    (4) 5%. H. 1842, 480.
    (10) Certain rents offered as security for preference dividends. H. 1842, 480. These shares had a second preference. Sc. 156.

41. Bolton & Preston Railway
    (2) May 13, 1842, 5 Vict., Sess. 2, c. xv. £238,475. Preamble.
    (3) To complete works. Preamble.
    (4) Up to company. S. 2.
    (5) Up to company. S. 2.
42. Dundee & Arbroath Railway
    (2) June 18, 1842, 5 Vict., Sess. 2, c. lxxxiii. £50,000. S. 2.
    (3) To improve road and to pay debts incurred in its construction. Preamble.
    (4) Up to 5%. S. 3.
    (7) Participating. S. 3.
    (9) Same as original shares. S. 11.
    (10) Preference dividends were not to be paid out of capital. S. 12.
43. Glasgow, Paisley, Kilmarnock & Ayr Railway
    (1) June 22, 1842, £156,250. Sc. 655, and SRSM 74.
    (2) May 13, 1842, 5 Vict., Sess. 2, c. xxix. £312,500. S. 2.
    (3) To complete branches. Preamble.
    (4) 5%. Sc. 655, also W. 22, also SRSM 77.
    (5) Perpetuity. Sc. 655.
    (7) Participating. Sc. 655, also W. 22, also SRSM 77.
    (10) Shares could be issued upon such terms as company saw fit if existing shares were not selling at a premium. S. 6.
44. Midland Counties Railway
    (1) August 13, 1842. Sc. 136, 137. £250,000. H. 1842, 864.
    (2) April 22, 1842, 5 Vict., Sess. 2, c. ii. £250,000. S. 2.
    (4) 6%. Sc. 137, also H. 1842, 864, 1274.
    (7) Participating. Sc. 137, also H. 1842, 864.
    (9) Same as original shares. S. 14.
    (10) Preference dividend payable out of profits. S. 16 and S. 17. Shares could be issued upon such terms as company saw fit if existing shares were not selling at a premium. S. 5.
45. Northern & Eastern Railway
    (1) October 1, 1842, £156,800. Sc. 334.
    (4) 5%. Sc. 335, also H. 1842, 1039.
    (5) Perpetuity. Sc. 335.
    (8) Convertible. Sc. 335, also H. 1842, 1039.
    (10) These shares to be sold at a discount. H. 1842, 1039.
46. Clarence Railway
    (1) October 12, 1842, £155,000. H. 1842, 1084. £100,000. Sc. Appendix, table facing p. 82.
    (2) June 27, 1843, 6 & 7 Vict. c. xlvi. £128,485. S. 5.
    (3) To discharge debt due government. S. 5.
    (4) Up to 6%. S. 5. 6%. H. 1842, 1084.
    (5) Perpetuity from November 1, 1842. S. 5.

(9) Voting. S. 19.
(10) Preference shares made preferred as to assets. H. 1842, 1084. Preference shares redeemable. S. 20, also H. 1842, 1084. Preference shares given priority over all securities including mortgages except government loan. S. 5. Preference shares called " First Class Preferential Shares." S. 5.

47. Clarence Railway
(1) October 12, 1842. H. 1842, 1084. £100,000. Sc. Appendix, table facing p. 82.
(2) June 27, 1843, 6 & 7 Vict. c. xlvi. £100,916. S. 10.
(3) To enable debt conversion. S. 10.
(4) Up to 5%. S. 10. 5%. H. 1842, 1084, also Sc. Appendix, table facing p. 82.
(5) Perpetuity from December 31, 1842. S. 10, and Sc. Appendix, table facing p. 82.
(9) Voting. S. 19.
(10) Preference shares called " Second Class Preferential Shares." S. 10. These shares had second preference as to assets. H. 1842, 1084. Preference shares redeemable. H. 1842, 1084, also S. 20.

48. West London Railway
(1) October 21, 1842, £32,000. H. 1842, 1104.
(3) To complete line. H. 1842, 366.
(4) 5%. H. 1842, 1104.
(6) Cumulative. H. 1842, 1104.
(7) Participating. H. 1842, 1104, also H. 1846, 1163-1164.
(10) Preference shares sold at a discount. H. 1842, 1104. Preference dividends payable out of profits. H. 1842, 1104. These shares called first class shares. H. 1842, 1104.

49. West London Railway
(1) October 21, 1842, £15,200. H. 1842, 1104.
(3) To complete line. H. 1842, 366.
(4) 5%. H. 1842, 1104.
(7) Participating. H. 1842, 1104, also H. 1846, 1163-1164.
(10) These shares called second class shares. H. 1842, 1104.

50. Northern & Eastern Railway
(1) February 14, 1843, £152,600. Sc. 335, and H. 1843, 185.
(2) May 31, 1843, 6 Vict. c. xxviii. £203,466. S. 17.
(3) To extend line. Preamble, also H. 1843, 317.
(4) & (5) 6% until four years after opening of railway to Newport and then 5% in perpetuity. Sc. 335, 337, and H. 1843, 185, also S. 21 and S. 22.
(8) Convertible. Sc. 335, also S. 21 and S. 22.
(10) Preference dividends payable out of capital for four years after opening line to Newport and then probably out of profits. H. 1843, 185, 186.

51. Hull & Selby Railway
    (1) May 26, 1843, £100,000. Sc. 208.
    (2) April 11, 1843, 6 Vict. c. vii. £117,000. S. 2.
    (3) To discharge debts and to improve road. Preamble.
    (4) 6%. Sc. 208, also H. 1843, 575.
    (5) Ten years. Sc. 208, also H. 1843, 575.
    (9) Voting. S. 6.
    (10) Shares could be issued upon such terms as company saw fit if old shares were not at a premium. S. 5.

52. Clarence Railway
    (1) £30,000. B. 51.
    (2) June 27, 1843, 6 & 7 Vict. c. xlvi. £70,243. S. 3.
    (3) To pay debt due government. S. 3.
    (4) Up to 6%. S. 3. 4%. B. 51.
    (5) Perpetuity. B. 51.
    (9) Voting. S. 19.
    (10) Preference shares called "Government Loan Shares." S. 3. Preference shares redeemable. S. 20. Preference shares could be given priority over existing debt except that due government. S. 3.

53. Glasgow, Paisley & Greenock Railway
    (1) September 13, 1843, £150,000. Sc. 596, also W. 21, 22. Cf. H. 1843, 1007.
    (2) June 27, 1843, 6 & 7 Vict. c. xlix. £150,000. S. 2.
    (3) To pay off debts. Preamble and S. 18.
    (4) & (5) 6% for ten years and thereafter 5%. Sc. 596, also SRSM 74, also W. 22, also H. 1843, 1007.
    (7) Participating after ten years. Sc. 596. Cf. W. 22 and H. 1843, 1007.
    (9) Same as original shares. S. 17.
    (10) Shares could be issued upon such terms as company saw fit if old shares were not at a premium. S. 6. These shares called "New or Preference Shares." W. 22.

54. Sheffield & Manchester Railway
    (1) September 27, 1843, £450,000. Sc. 187, also H. 1843, 1015.
    (2) April 11, 1843, 6 Vict. c. ix. £450,000. S. 2.
    (3) To complete the line. Preamble.
    (4) 7½%. Sc. 187, 188, also B. 63, also Wa. 177.
    (5) Ten years. Sc. 188, also B. 63, also Wa. 177, also H. 1843, 1015.
    (9) Same as original shares. S. 16.
    (10) Shares could be issued upon such terms as company saw fit if old shares were not at a premium. S. 5.

55. London & Dublin Trade's Bank
    (1) Before October, 1843, £500,000. H. 1843, 1042.
    (10) Preference shares called shares of first series. H. 1843, 1042.

56. Pacific Steam Navigation Co.
    (1) Preference share issue considered November 8, 1843. H. 1843, 1159.
    (4) 7½% or 10%. H. 1843, 1159.
    (5) For a limited period of five or seven years. H. 1843, 1159.
    (10) There existed legal impediments to the issue of shares at a discount or to the use of loan notes. H. 1843, 1159.
57. Edinburgh & Newhaven Railway
    (1) December 26, 1843, £80,000. Prospectus.
    (2) July 19, 1844, 7 & 8 Vict. c. lxxxi. £73,400. S. 33.
    (3) To construct branches. Preamble, also Prospectus.
    (4) 5%. S. 34, also Prospectus.
    (5) Perpetuity. Sc. 641, also SRSM 67.
    (6) Probably non-cumulative. Prospectus.
    (7) Participating. S. 34, also Prospectus.
    (10) Preference dividends payable "out of the free revenue of each year." Prospectus. Preference shares called "Edinburgh, Leith, & Granton Railway New Stock." S. 34.
58. Eastern Counties Railway
    (1) January 10, 1844, £960,000. Sc. 331, also W. 17.
    (2) July 4, 1844, 7 & 8 Vict. c. lxii. £960,000. S. 3.
    (3) To construct new lines. Preamble.
    (4) 5%. S. 6, also Sc. 331, also W. 17.
    (5) Perpetuity. S. 8, also Sc. 331, also W. 17.
    (7) Non-participating. S. 6, also W. 17.
    (10) Preference dividends payable out of the funds of the company. S. 6. Preference dividends payable out of capital until completion of new lines. H. 1846, 230. Preference dividends given priority over mortgages. S. 8, also Sc. 320, also W. 17, also H. 1847, 573. These shares called "No. 1 Perpetual £5. per Cents." W. 17.
59. West London Railway
    (1) March 6, 1844, £129,200. H. 1844, 283. Cf. H. 1844, 74.
    (3) To build an extension. H. 1844, 283.
    (4) 5%. H. 1844, 283.
    (5) Perpetuity. H. 1844, 283.
    (7) Participating. H. 1844, 283.
    (10) These shares given priority over second class but after first class. H. 1844, 283. Preference shares redeemable. H. 1844, 283. Preference shares called Knightsbridge Extension Shares. H. 1844, 283.
60. North Midland Railway
    (1) April, 1844, £450,000. H. 1844, 439.
    (3) To construct additional road. H. 1844, 439.
    (4) 4%. H. 1844, 439.
    (5) Perpetuity. H. 1844, 439.
    (7) Participating. H. 1844, 439.

(10) Preference dividends payable out of capital during construction and thereafter probably out of profits. H. 1844, 439.

61. Eastern Counties Railway
  (1) April 30, 1844, £960,000. Sc. 331, also W. 17.
  (2) July 4, 1844, 7 & 8 Vict. c. lxii. £960,000. S. 3.
  (3) To construct line. Preamble, also H. 1844, 526.
  (4) 5%. S. 6, also Sc. 331, also H. 1844, 526.
  (5) Perpetuity. S. 8, also Sc. 331, also H. 1844, 526.
  (6) Possibly non-cumulative. H. 1844, 499.
  (7) Non-Participating. S. 6, also W. 17, also H. 1844, 499.
  (9) Non-voting. S. 4.
  (10) Preference shares called "Perpetual Five per Cent. Extension Stock, No. 2." H. 1844, 526. Preference shares non-participating as to new issues. W. 17. Preference dividends payable out of net profits of certain extension lines but with certain priorities over interest, etc. H. 1844, 526, also S. 8.

62. St. Helen's & Runcorn Gap Railway
  (1) 1st half of 1844, £144,000. Sc. 507, and B. 67, and W. 33.
  (2) July 21, 1845, 8 & 9 Vict. c. cxvii. £144,000. S. 11.
  (3) To purchase Sankey Brook Navigation. Preamble and S. 11, also Sc. 506, also W. 33.
  (4) 5%. S. 32, also B. 67, also H. 1844, 633.
  (5) Perpetuity. B. 67.
  (7) Participating. S. 32, also W. 33, also Sc. 506, also H. 1844, 633.
  (9) Voting. S. 19.
  (10) These shares called "Preference Shares." S. 11. Preference dividends payable out of net profits. S. 32.

63. London & Brighton Railway
  (1) August 9, 1844, £234,750. Sc. 279, also H. 1844, 944.
  (3) To purchase interests in other railways. H. 1844, 944.
  (4) 5%. Sc. 279, also H. 1844, 944.
  (5) Ten years beginning January 1, 1846. Sc. 279, also H. 1844, 944.
  (7) Participating. Sc. 279, also H. 1844, 944.
  (8) Made convertible February 13, 1846. Sc. 279, also H. 1846, 213.

64. Taff Vale Railway
  (1) August 16, 1844, £60,000. Sc. 542, also H. 1844, 985, 986, 1310.
  (2) July 19, 1844, 7 & 8 Vict. c. lxxxiv. £120,000. S. 25.
  (3) To alter line, to pay debts, to increase working capital. Preamble and H. 1844, 985.
  (4) 5%. Sc. 542, also H. 1844, 986, 1310.

(6) Probably cumulative for ten years. Sc. 542, also H. 1844, 1311.
(7) Non-participating. Sc. 543, also H. 1844, 1311.
(9) Voting. S. 32.
(10) Preference shares non-redeemable for ten years. H. 1844, 1311, also Sc. 542. Shares could be issued upon such terms as company saw fit, if old shares were not at a premium. S. 30. This issue had priority over previously issued preference shares. H. 1844, 986.

65. London & Croydon Railway
(1) August 22, 1844, £399,600. Sc. 276, also H. 1844, 1007, and W. 25.
(2) August 6, 1844, 7 & 8 Vict. c. xcvii. £200,000. S. 36.
(3) To purchase a railway and to enable construction. S. 36, and H. 1844, 982, 1007.
(4) 5%. Sc. 276, also H. 1844, 983.
(5) Perpetuity. Sc. 276.
(7) Non-participating. Sc. 277, also H. 1844, 1007.
(8) Convertible. Sc. 276, also W. 25, also H. 1844, 1007.
(9) Non-voting. Sc. 277, also H. 1844, 1007.
(10) Company could attach to the new shares such provisions as it saw fit. S. 36. Preference dividends payable out of capital until completion of line purchased and then out of profits. Sc. 276, also H. 1844, 1007.

66. Midland Railway
(1) October 8, 1844, £150,000. Sc. 119, and H. 1844, 1203, 1205.
(2) July 21, 1845, 8 & 9 Vict. c. xc. £150,000. S. 10.
(3) To absorb a railway. S. 10, also Sc. 123, also H. 1844, 1205.
(4) 6%. S. 13, also B. 64, also Sc. 119, also H. 1844, 1205.
(5) Perpetuity. Sc. 128, also B. 64, also Wa. 177.
(7) Non-participating. S. 13.
(9) Non-voting. S. 11.
(10) Preference dividends payable out of profits. S. 13. Preference shares participated in new issues. W. 33, also B. 64. Preference shares called "Sheffield & Rotherham Preferential Stock." S. 12. Receivers to be appointed if preference dividends were unpaid. S. 14.

67. Great North of England Railway
(1) October 15, 1844, £300,000. Sc. 230, also H. 1844, 1241.
(3) To construct branches. Sc. 230, also H. 1844, 1241.
(4) 5%. Sc. 230, also H. 1844, 1241.
(5) Until completion of branches. Sc. 230, also H. 1844, 1241.
(10) Preference dividends payable out of capital. Sc. 230, also H. 1844, 1241.

68. York & North Midland Railway
 (1) October 28, 1844, £632,500. H. 1844, 1306.
 (3) To purchase a railway. H. 1844, 1306.
 (4) 4%. H. 1844, 1306.
 (5) Until the completion of certain works. H. 1844, 1306.
 (10) Preference dividends payable out of capital. H. 1844, 1306.

69. Hull & Selby Railway
 (1) October 31, 1844, £200,000. Sc. 207, 209, also H. 1844, 1331.
 (2) June 30, 1845, 8 & 9 Vict. c. li. £216,000. S. 4.
 (3) To construct additional line. H. 1844, 1331.
 (4) 4%. Sc. 209, also H. 1844, 1331.
 (5) Until completion of intended works. H. 1844, 1331.
 (7) Probably non-participating. H. 1844, 1331.
 (9) Voting. S. 13.
 (10) Company could attach to the new shares such provisions as it saw fit. S. 5. Preference dividends payable out of capital. H. 1844, 1331.

70. Great Western Steam Ship Co.
 (1) November 26, 1844, £50,000. H. 1844, 1447.
 (3) "To meet present exigencies." H. 1844, 1447.
 (4) 5%. H. 1844, 1447.
 (6) Cumulative. H. 1844, 1447.
 (7) Participating. H. 1844, 1447.
 (10) These shares preferred as to assets. H. 1844, 1447. Preference dividends payable out of net profits. H. 1844, 1447.

71. London & Croydon Railway
 (1) January 2, 1845, £270,000. H. 1845, 3. £1,776,000. Sc. 277.
 (2) Act failed. Sc. 278.
 (3) To extend and improve lines and to acquire other roads. H. 1845, 3, also Sc. 277.
 (4) 5%. H. 1845, 3.
 (5) Until shares were paid up or until regular calls ceased. Sc. 277.
 (7) Non-participating. H. 1845, 3.
 (8) Convertible. H. 1845, 3. Cf. Sc. 277.
 (9) Non-voting. H. 1845, 3.
 (10) Preference dividends payable out of capital. Sc. 277.

72. Durham & Sunderland Railway
 (1) January 6, 1845, £182,400. H. 1845, 45, 46.
 (3) To extend line. H. 1845, 45, 46.
 (4) 5%. H. 1845, 46.
 (5) Perpetuity. H. 1845, 46.
 (10) Preference dividends payable out of capital until completion of line, and then out of profits. H. 1845, 46.

73. London & Brighton Railway
    (1) January 9, 1845, £339,583. Sc. 280, also H. 1845, 53.
    (3) To build branches. H. 1845, 53.
    (4) 5% commencing June 30, 1847. H. 1845, 53. Cf. Sc. 280.
    (5) Perpetuity. Sc. 280, also H. 1845, 53.
    (8) Convertible before June 30, 1848. H. 1845, 53.
    (10) These shares called "preference shares." Sc. 280.
74. London & Blackwall Railway
    (1) May 20, 1845, £160,000. H. 1845, 793.
    (3) To refund debentures. H. 1845, 793, also Sc. 472.
    (4) 3½%. H. 1845, 793, also Sc. 472.
    (5) Until December 31, 1847. H. 1845, 793. Until shares were fully paid. Sc. 472.
75. Northern & Eastern Railway
    (1) August 14, 1845. H. 1845, 1369, 1370. £307,800. Sc. 335.
    (3) To capitalize loans. Sc. 335, also H. 1845, 1370.
    (4) 5%. Sc. 336, also H. 1845, 1370.
    (7) Participating. Sc. 336, also H. 1845, 1370.
76. Taff Vale Railway
    (1) December 10, 1845, £60,000. Sc. 543, also Ec. 1845, 1271.
    (4) 4½%. Sc. 543. Not exceeding 5%. Ec. 1845, 1271, also H. 1845, 2734.
    (7) Non-participating. Sc. 543, also H. 1845, 2734.
    (10) Preference shares redeemable after ten years. H. 1845, 2734.
77. Copper Miners' Co.
    (1) June 10, 1846. B. M. 1849, 98. April, 1846, £500,000. Court Decision, 2 Ph. 740.
    (3) To liquidate loans. Court Decision, 2 Ph. 742.
    (4) Probably 7½%. Court Decision, 2 Ph. 743.
    (10) Preference shares redeemable. Court Decision, 2 Ph. 742.
78. Midland Railway
    (1) £1,799,902. Sc. 121.
    (2) August 3, 1846, 9 & 10 Vict. c. cccxxvi. £1,799,890. S. 28 and S. 30.
    (3) For the purchase of several roads. Sc. 120.
    (4) 6%. S. 29, also Sc. 121.
    (7) Non-participating. S. 29, also Sc. 121.
    (10) Preference shares redeemable at 50% premium after 1848. S. 27, also Sc. 121. These shares called "Six per Cent. Midland Railway Shares." S. 29 and S. 30.
79. Norfolk Railway
    (1) August 13, 1846, £300,000. Sc. 345, also W. 28, also H. 1846, 1011, 1013.
    (2) July 16, 1846, 9 & 10 Vict. c. clxix. £300,000. S. 4.
    (3) To build additional line. Preamble.
    (4) 5%. S. 5, also Sc. 345, also W. 28, also H. 1846, 1013.

(5) Until the opening of the railway and branch. S. 5.
(7) Non-participating. S. 5, also Sc. 345, also W. 28, also H. 1846, 1013.
(10) Preference shares non-participating as to new share issues. Sc. 345, also W. 28, also H. 1846, 1013.

80. Glasgow, Paisley, Kilmarnock & Ayr Railway
(1) September 9, 1846, £703,125. Sc. 656, also B. M. 1848, 784. £703,725. SRSM 74.
(2) Various acts between June and August, 1846: 9 Vict. c. lx, s. 5; 9 Vict. c. lxi, s. 5; 9 Vict. c. lxii, s. 5; 9 & 10 Vict. c. ccxi, s. 9; 9 & 10 Vict. c. cccxcii, s. 46.
(3) To make alterations and to construct branches. See acts cited in (2).
(4) 5%. Sc. 656, also B. M. 1848, 784, also SRSM 77.
(10) These shares called " No. 1 " shares. SRSM 74.

81. York & Newcastle Railway
(1) October 26, 1846, £3,975,000. Sc. 226-7, and Ec. 1849, 425.
(3) To purchase a railway. Sc. 226, also Ec. 1849, 425.
(4) 6%. Sc. 227, also Ec. 1849, 425.
(5) Until the completion of the Great North of England Railway purchase. Sc. 227. Until 1850. Ec. 1849, 425.

82. York & North Midland Railway
(1) October 26, 1846, £1,573,750. Sc. 205.
(2) July 27, 1846, 9 & 10 Vict. c. ccxli. £2,000,000. S. 39.
(3) To purchase a railway. S. 39, also Sc. 205.
(4) 6%. Sc. 205.
(5) Until the completion of the Hull & Selby Railway purchase. Sc. 205.
(10) Company could attach to the new shares such provisions as it saw fit. S. 39. Preference shares participated in new stock issues. H. 1847, 141.

83. Leeds & Thirsk Railway
(1) November 30, 1846. Sc. 460.
(2) June 26, 1849, 12 & 13 Vict. c. xxvii, s. 9.
(3) To extend road and to alter lines. Sc. 460.
(4) 6%. Sc. 460.

84. Leeds & Thirsk Railway
(1) About January, 1847, £385,400. H. 1847, 69.
(3) To purchase a railway. H. 1847, 69.
(4) 6%, 5%, 4%. H. 1847, 69.

85. London & Blackwall Railway
(1) January 12, 1847, £106,667. Ec. 1847, 83.
(3) To retire 6% debentures. Ec. 1847, 83.
(4) 3½%. Ec. 1847, 83.
(5) Until all calls had been paid up. Ec. 1847, 83.

86. Glasgow, Paisley, Kilmarnock & Ayr Railway
    (1) January 14, 1847, £445,175. Sc. 656, and SRSM 74.
    (2) Various previous acts. See Sc. 656.
    (3) To capitalize existing mortgages. Sc. 656.
    (4) 5%. Sc. 656, also SRSM 77.
    (5) Until January 31, 1850. Sc. 656, also SRSM 77.
    (10) These preference shares called "No. 2" shares. SRSM 74.
87. North Staffordshire Railway
    (1) January 15, 1847. Sc. 502.
    (2) Various acts of July 26, 1846: 9 & 10 Vict. c. lxxxiv, ss. 47, 49; 9 & 10 Vict. c. lxxxv, ss. 66, 69; 9 & 10 Vict. c. lxxxvi, ss. 62, 65. £1,170,000 in all. 10 & 11 Vict. c. cviii, ss. 6, 9.
    (3) To enable absorption of a canal. 10 & 11 Vict. c. cviii, s. 6, also Sc. 502, also W. 28.
    (4) & (5) 6 2/3% until opening of railway and then 5% in perpetuity. 10 & 11 Vict. c. cviii, ss. 9, 10, also W. 28, also Sc. 503 and Appendix, table facing p. 82.
    (7) Participating. 10 & 11 Vict. c. cviii, s. 10, also W. 28, also Sc. 503 and Appendix, table facing p. 82.
    (10) Preference dividends payable out of capital if necessary until completion of railway and then out of tolls and receipts. 10 & 11 Vict. c. cviii, ss. 9, 10. Cf. Sc. 503. These shares called "Preference Shares." 10 & 11 Vict. c. cviii, s. 6, also Sc. 503.
88. Ipswich, Bury & Norwich Railway
    (1) February 5, 1847, £300,000. Ec. 1847, 166.
    (3) To pay loans. Ec. 1847, 167.
    (4) 5%. Ec. 1847, 167.
    (5) Perpetuity. Ec. 1847, 167.
    (7) Non-participating. Ec. 1847, 167.
89. London, Brighton & South Coast Railway
    (1) February 19, 1847, £307,525. Sc. 281, also W. 26.
    (4) 5%. Sc. 281, also W. 26.
    (5) Perpetuity. W. 26, also Sc. 281.
    (7) Non-participating. Sc. 282, also W. 26.
    (8) Convertible before December, 1848. Sc. 281, also W. 26.
    (9) Non-voting. Sc. 282, also W. 26.
    (10) Preference shares called "London and Brighton £5. per Cent. Preference Shares." W. 25.
90. Blackburn, Clitheroe & North-Western Junction Railway
    (1) February 26, 1847. H. 1847, 327. £200,000. Sc. 405.
    (3) To facilitate an amalgamation. H. 1847, 327, also Sc. 405.
    (4) 6%. H. 1847, 327.
    (10) Preference dividends probably payable out of capital and then income. H. 1847, 327. These shares called "B" shares. Sc. 405.

91. South Devon Railway
    (1) March 15, 1847, £500,000. Sc. 527.
    (2) August 28, 1846. 9 & 10 Vict. c. ccccii. £500,000. S. 4.
    (3) To alter and to extend line. Preamble.
    (4) 6%. Sc. 527.
    (5) Ten years. Sc. 527.
    (6) Cumulative. Court Decision, 9 Hare 313.
    (7) Participating. Sc. 527.
    (10) Company could attach to the new shares such guarantees as it saw fit. S. 8. Preference dividends payable "out of their Corporate Funds." S. 8.
92. Newcastle-upon-Tyne & Carlisle Railway
    (1) July 26, 1847, £240,000. H. 1847, 886, also Sc. 492.
    (2) August 26, 1846, 9 & 10 Vict. c. cccxciv. £240,000. S. 10.
    (3) To extend railway. Preamble.
    (4) 5%. H. 1847, 886, also Sc. 492.
    (5) Until December 31, 1848. H. 1847, 886, also Sc. 492.
    (7) Non-participating. H. 1847, 886, also Sc. 492.
    (10) Company could attach to the new shares such provisions as it saw fit. S. 11.
93. East Lancashire Railway
    (1) July 30, 1847, £217,000. Sc. 440.
    (2) July 22, 1847, 10 & 11 Vict. c. cclxxxix. £217,000. S. 33.
    (3) To extend line. Preamble.
    (4) 5%. Sc. 440.
    (5) Until January 1, 1850. Sc. 440.
    (7) Non-participating. Sc. 440.
    (9) Voting. S. 36.
    (10) Company could attach to the new shares such dividend rate as it saw fit. S. 35.
94. Shrewsbury & Chester Railway
    (1) August 4, 1847, £175,000. Sc. 520.
    (4) 8%. Sc. 520.
    (5) Perpetuity beginning three months after opening of line. Sc. 520 and Appendix, table facing p. 82.
    (7) Non-participating. Sc. 520.
95. Chester & Holyhead Railway
    (1) August 11, 1847, £630,000. H. 1847, 932, 933, and Sc. 415.
    (2) Various acts of 1847: 10 & 11 Vict. c. cxlvii, s. 25; 10 & 11 Vict. c. clxii, ss. 9, 10; 10 & 11 Vict. c. ccxxxviii, s. 11. Also £200,000 of capitalized loan power. Sc. 415, 418. £630,000 in all.
    (3) To extend lines, to capitalize loans. Sc. 414, 415, 418.
    (4) 5½%. H. 1847, 933, also Sc. 415.
    (5) Perpetuity. H. 1847, 933.

(7) Participating. H. 1847, 933, also Sc. 415.
(10) Company could attach to the new shares such provisions as it saw fit. See acts cited in (2).

96. Manchester, Sheffield & Lincolnshire Railway
(1) August 18, 1847, £872,000. Sc. 189.
(2) Various acts of July, 1847: 10 & 11 Vict. c. cxvi, s. 3; 10 & 11 Vict. c. cxxxviii, s. 9; 10 & 11 Vict. c. clxv, s. 3. £600,000 in all.
(3) To build branches, to pay debts, to improve line, and to complete tunnel. See various acts cited in (2). See also H. 1847, 1014.
(4) & (5) 7½% for six years from July 1, 1849, and then 6% in perpetuity. Sc. 189. See also H. 1847, 1014.
(7) Participating. Sc. 189.
(10) Company could attach to the new shares such provisions as it saw fit, except that interest could be paid only on pre-paid calls. See acts cited in (2). These shares called "Preference 10*l*. Shares." Sc. 189.

97. London, Brighton & South Coast Railway
(1) August 19, 1847, £82,000. B. 1850, 98.
(4) 5%. B. 1850, 98.
(5) Perpetuity. B. 1850, 98.
(8) Convertible before December 31, 1852. B. 1850, 98.
(10) These shares called "fifteenths F." B. 1850, 98.

98. Eastern Union Railway
(1) August 20, 1847, £300,000. Sc. 371.
(2) August 1, 1849. See Court Decision, 7 De G. M. & G. 158.
(3) To construct railway and to purchase a road. Sc. 371.
(4) 6%. Sc. 371.
(5) Perpetuity beginning January 1, 1849. Sc. 371.
(6) Cumulative. Court Decision, 7 De G. M. & G. 158.
(8) Convertible. Sc. 371.
(10) Preference shares made redeemable by act of August, 1853. Court Decision, 7 De G. M. & G. 158.

99. Norfolk Railway
(1) August 23, 1847, £120,000. Sc. 347. Cf. B. 65.
(2) July 2, 1847, 10 & 11 Vict. c. xciv. £160,000. S. 4.
(4) 6%. Sc. 347.
(7) Non-participating. Sc. 347.
(10) Company could attach to the new shares such provisions as it saw fit. S. 4.

100. Norfolk Railway
(1) August 24, 1847, £400,000. Sc. 346.
(4) 5%. Sc. 346.
(7) Non-participating. Sc. 346.

101. Norfolk Railway
(1) August 24, 1847, £105,000. Sc. 346.
(2) July 2, 1847, 10 & 11 Vict. c. xcix. £75,000. S. 4.
(3) To construct branch. Preamble, also H. 1847, 986.
(4) 5½%. Sc. 346.
(7) Non-participating. Sc. 346.
(10) Company could attach to the new shares such provisions as it saw fit, except that interest could not be paid out of capital. S. 4 and S. 8.

102. Bolton, Blackburn, Clitheroe & West Yorkshire Railway
(1) August 26, 1847, £200,000. Sc. 405-6.
(4) 6%. Sc. 406.
(5) Perpetuity. Sc. Appendix, table facing p. 82.
(7) Participating. Sc. Appendix, table facing p. 82.
(10) Preference shares called "Preference No. 2." Sc. 406.

103. East Anglian Railway
(1) November 3, 1847, £79,802. Sc. 354.
(2) July 22, 1847, 10 & 11 Vict. c. cclxxv. £79,802. S. 23.
(3) To raise additional money at amalgamation. S. 23.
(4) 6%. Sc. 354.
(5) Perpetuity. Sc. 354.
(7) Non-participating. Sc. 354.
(8) Convertible before December, 1852. Sc. 354.
(10) Preference shares issued at a discount. H. 1847, 1255.

104. London & South-Western Railway
(1) November 27, 1847. Ec. 1847, 1410, 1411. £2,462,757. Sc. 254.
(2) Various acts of July, 1848: 11 & 12 Vict. c. lxxxvii, s. 4; 11 & 12 Vict. c. cxxv, s. 3; 11 & 12 Vict. c. lxxxv. s. 7. £2,015,000 in all.
(3) For extensions. See acts cited in (2).
(4) 7% on deposit and 5% on balance. See acts cited in (2)—S. 8, S. 9, and S. 11, respectively.
(5) Perpetuity. See acts cited in (2)—S. 8, S. 9, and S. 11, respectively.
(7) Non-participating. See acts cited in (2)—S. 8, S. 9, and S. 11, respectively.
(8) Convertible. See acts cited in (2)—S. 8, S. 9, and S. 11, respectively.
(9) Voting. See acts cited in (2).
(10) Preference dividends payable out of the general revenues of the company. See acts cited in (2)—S. 8, S. 9, and S. 11, respectively.

105. North & South Wales Bank
(1) November 30, 1847, £100,000. H. 1847, 1352.
(3) To enable resumption of business. H. 1847, 1352.
(4) 7%. H. 1847, 1352.

106. Liverpool Banking Co.
   (1) Preference share issue considered on November 30, 1847. £240,000. H. 1847, 1377.
   (3) To enable resumption of business. H. 1847, 1377.
   (4) 6%. H. 1847, 1377.
   (7) Participating. H. 1847, 1377.
107. St. Helen's Canal & Railway Co.
   (1) 1847, £158,400. W. 33, and B. 67.
   (2) July 22, 1847, 10 & 11 Vict. c. cclxxi. £159,400. S. 26.
   (3) To make a branch and for alterations. Title to act cited in (2), also Sc. 506.
   (4) 6%. Sc. 507, also W. 33.
   (5) Perpetuity. Sc. 507, also B. 67.
   (7) Participating. Sc. 507, also W. 33, also B. 67.
   (9) Voting. S. 29.
   (10) Company could attach to the new shares such provisions as it saw fit, except that priority of existing preferred shares could not be affected. S. 26.
108. Royal Bank of Liverpool
   (1) December, 1847, or January, 1848. H. 1847, 1377.
   (4) 7%. H. 1847, 1377.
   (10) Preference shares used to raise money in preference to a call on existing shares. H. 1847, 1377.
109. East Anglian Railway
   (1) February 16, 1848, £151,600. Sc. 355.
   (2) Apparently without authority. See 12 & 13 Vict. c. lii, s. 8.
   (3) To discharge debt. 12 & 13 Vict. c. lii, s. 8.
   (4) 7%. S. 8, also Sc. 355.
   (5) Perpetuity from January 1, 1849. Sc. 355.
   (7) Non-participating. Sc. 355.
   (9) Probably non-voting. Sc. 355.
   (10) Probably preference shares could not participate in new issues. Sc. 355.
110. Slamannan Railway
   (1) February 26, 1848, £7,050. 11 & 12 Vict. c. cxxxiv, s. 13. Cf. Sc. 662-663.
   (2) July 16, 1846, 9 & 10 Vict. c. cli. £60,000. S. 3.
   (3) To raise amount necessary before applying to Parliament for an amalgamation act. Sc. 662-663.
   (4) 5%. Sc. 663, also 11 & 12 Vict. c. cxxxiv, s. 13.
   (7) Non-participating. Sc. 663; also 11 & 12 Vict. c. cxxxiv, s. 13.
   (9) Probably non-voting. Sc. 663.
   (10) Company could attach to the new shares such provisions as it saw fit. S. 3. Preference dividends payable out of general profits. 11 & 12 Vict. c. cxxxiv, s. 13. Probably preference shares could not participate in new issues. Sc. 663.

111. Eastern Counties Railway
   (1) May 2, 1848, £675,920. Sc. 333.
   (4) 6%. Sc. 333.
   (5) Perpetuity. Sc. Appendix, table facing p. 82.
   (7) Participating. Sc. 333.

112. London, Brighton & South Coast Railway
   (1) May 26, 1848, £461,855. Sc. 282.
   (3) To convert mortgage. Sc. 282.
   (4) 6%. Sc. 282.
   (5) Perpetuity. Sc. 282.
   (7) Participating. Sc. 282.
   (9) Voting. Sc. 283.

113. East Lancashire Railway
   (1) May 29, 1848, £288,375. Sc. 440.
   (2) July 28, 1849, 12 & 13 Vict. c. lxxi. £304,000. S. 14.
   (3) To complete works and to make branches. S. 14.
   (4) 6%. Sc. 440. Not exceeding 10%. S. 15.
   (5) Perpetuity. Sc. Appendix, table facing p. 82.
   (7) Participating. Sc. 440.
   (9) Voting. S. 16.
   (10) These shares called "Preference Quarter Shares." Sc. 440. Previously issued preference shares had priority. S. 15.

114. Lancashire & Yorkshire Railway
   (1) May 31, 1848, £1,055,000. Sc. 176. £794,120. Ec. 1849, 535.
   (2) Apparently no act. See Court decision, 2 De G. & Sm. 531.
   (3) To pay debts. Court decision, 2 De G. & Sm. 534.
   (4) 6%. Sc. 176.
   (5) Perpetuity. Sc. 176.
   (6) Cumulative. Court decision, 2 De G. & Sm. 535.
   (7) Non-participating. Sc. 176.
   (9) Probably non-voting. Sc. 176.
   (10) These shares non-participating in new issues. Sc. 176.

115. Caledonian Railway
   (1) July 20, 1848, £745,180. Sc. 569 and 594, and SRSM 51.
   (2) Various acts of 1846 and 1847: 9 & 10 Vict. c. ccxxix, s. 2; 9 & 10 Vict. c. cccxxix, s. 28; 9 & 10 Vict. c. cccxcv, s. 3; 10 & 11 Vict. c. lxxxii, s. 3; 10 & 11 Vict. c. ccxxxvii, s. 3. £745,180 in all.
   (3) To construct and purchase branch lines and to enlarge station. See titles to acts cited in (2).
   (4) & (5) 7% for five years and thereafter 6% in perpetuity. Sc. 569, also SRSM 51.
   (7) Non-participating. Sc. Appendix, table facing p. 82, also SRSM 51.
   (10) These shares called "10*l.* guaranteed shares." Sc. 594, and SRSM 47.

116. Great Northern Railway
    (1) August 12, 1848. Sc. 380-381. £232,013. Gr.78.
    (2) August 14, 1848, 11 & 12 Vict. c. cxiv.
    (3) To relieve shareholders of further calls. Gr. 77-78.
    (4) 6%. S. 70, also Sc. 381.
    (6) Probably non-cumulative. Sc. 381.
117. Whitehaven Junction Railway
    (1) August 22, 1848, £25,000. Sc. 555.
    (2) July 22, 1848, 11 & 12 Vict. c. xci. £33,000. S. 2. Plus loan conversion authorized in S. 10.
    (4) 6%. Sc. 555. Not exceeding 10%. S. 2.
    (9) Voting. S. 6.
    (10) Company could attach to the new shares such provisions as it saw fit, provided old shares were not selling at a premium and provided the preference dividend did not exceed 10%. S. 5.
118. Glasgow, Paisley, Kilmarnock & Ayr Railway
    (1) August 24, 1848, £250,000. Sc. 657.
    (2) July 9, 1847, 10 & 11 Vict. c. clxxxiii. £900,000. S. 9.
    (3) To complete line. S. 9.
    (4) & (5) 6% until July 31, 1851, and thereafter 5%. Sc. 657, also SRSM 77.
    (7) Participating. Sc. 657 and Appendix, table facing p. 82.
    (10) These shares had a second preference. Sc. 657. Cf. S. 9.
119. Monkland Railway
    (1) September 6, 1848, £55,000. Sc. 665, and SRSM 80.
    (2) August 14, 1848, 11 & 12 Vict. c. cxxxiv. Such further sums as amalgamating companies had power to raise. S. 14.
    (3) To raise more money at time of consolidation. S. 15.
    (4) 6%. Sc. 665, also SRSM 81. Not exceeding 6%. S. 14.
    (5) Perpetuity. Sc. Appendix, table facing p. 82.
    (7) Non-participating. Sc. 665, also SRSM 81.
    (8) Convertible. Sc. 665, also SRSM 81.
    (9) Voting. S. 18.
    (10) These shares had a second preference. S. 13 and S. 14.
120. Kendal & Windermere Railway
    (1) September 11, 1848, £50,000. Sc. 444.
    (2) June 30, 1848, 11 & 12 Vict. c. xxvi. £50,000. S. 2.
    (3) To complete works and pay debts. S. 2.
    (4) 6%. Sc. 444.
    (5) Perpetuity. Sc. 444.
    (7) Non-participating. Sc. 444, 445.
    (9) Probably non-voting. Sc. 445.
    (10) Company could issue shares upon such terms as it saw fit. S. 2. These shares probably could not participate in further security issues. Sc. 445. Preference dividends to be charged upon profits. Sc. 445.

121. Shrewsbury & Birmingham Railway
- (1) September 12, 1848, £155,000. Sc. 512, also Ec. 1848, 1067.
- (2) July 2, 1847, 10 & 11 Vict. c. lxxx. £155,000. S. 3.
- (3) To make branch railways, etc. See Act cited in (2). To complete line. Ec. 1848, 1067.
- (4) & (5) 8% for ten years and thereafter 6%. Sc. 512, but cf. Sc. Appendix, table facing p. 82.
- (9) Voting. S. 5.
- (10) Company could attach to the new shares such provisions as it saw fit. S. 3. Effort made to restrain directors from issuing these preference shares. Court decision, 2 De G. & Sm. 537.

122. Leeds & Thirsk Railway
- (1) October 7, 1848. Sc. 461. £125,000. Court decision, 3 K. & J. 725.
- (2) Illegally issued, but made valid under an Act of 1851. Court decision, 3 K. & J. 741.
- (3) To capitalize mortgages. B. 1850, 89.
- (4) & (5) 7% for three years and thereafter 6% in perpetuity. Sc. 461.
- (6) Cumulative. Court decision, 3 K. & J. 723.
- (10) Preference dividends payable out of profits. Court decision, 3 K. & J. 723.

123. Aberdeen Railway
- (1) January 10, 1849, £276,000. Ec. 1849, 110. Cf. Sc. 561.
- (2) July 22, 1848, 11 & 12 Vict. c. lxvii. £276,666. S. 1.
- (3) To complete line. S. 1, also Ec. 1849, 110.
- (4) & (5) Not exceeding 10%. S. 1. 6%. Sc. 561, also Ec. 1849, 110. Perpetuity. Sc. 561, also Ec. 1849, 110. 6% for five years from November, 1849, and 5% thereafter. SRSM 42-43.
- (7) Participating. Sc. 561, also Ec. 1849, 110, also SRSM 42-43.
- (9) Voting. S. 3.
- (10) This issue called " New Preference Stock." Ec. 1849, 110.

124. East & West Yorkshire Junction Railway
- (1) February 9, 1849, £40,000. Sc. 431.
- (4) 6%. Sc. 431.
- (5) Perpetuity. Sc. 431.
- (7) Non-participating. Sc. 431.
- (9) Probably non-voting. Sc. 431.
- (10) These shares non-participating in further security issues. Sc. 431. These shares called " Preference Fifth Shares." Sc. 431.

125. Great Western Railway
- (1) February 15, 1849, £500,000. Sc. 99-100.
- (2) July 22, 1848, 11 & 12 Vict. c. lxxiv. £500,000. S. 5.
- (3) To construct branch. Preamble.

(4) 5%. S. 5, also Sc. 91n.
(5) Perpetuity. S. 5, also Sc. 111 and 112.
(7) Non-participating. S. 5.
(9) Non-voting. S. 5.
(10) These shares called "Berks and Hants Preference Shares." S. 5.

126. East Anglian Railway
(1) February 28, 1849. 12 & 13 Vict. c. lii, preamble. £294,800. Sc. 355-6.
(2) July 13, 1849, 12 & 13 Vict. c. lii. £375,520. S. 8.
(3) To pay debts. S. 8.
(4) 7%. S. 8, also Sc. 357.
(5) Perpetuity. S. 8, also Sc. 357.
(7) Non-participating. Sc. 357.
(9) Probably non-voting. Sc. 357.
(10) These shares given priority over existing preference shares. S. 8. Preference dividends payable out of profits. Sc. 357.

127. North British Railway
(1) March 8, 1849, £600,000. Sc. 682.
(2) June 30, 1848, 11 & 12 Vict. c. xxv. £600,000. S. 2.
(3) To complete road. Preamble.
(4) & (5) 6% for five years and thereafter 5% in perpetuity. Sc. 682.
(10) Company could issue these shares upon such terms as it saw fit. S. 3.

128. Chester & Holyhead Railway
(1) March 16, 1849, £335,000. Sc. 416-419.
(2) June 26, 1849, 12 & 13 Vict. c. xli. £325,000. S. 2.
(3) To complete works. Preamble.
(4) Not exceeding 10%. S. 2. Not to exceed 6%. Sc. 419n.
(10) These were second preference shares. S. 2, also Sc. 419n.

129. Great Northern Railway
(1) June 7, 1849, £663,366. Court decision, 1 De G. & J. 606.
(2) August 1, 1849, 12 & 13 Vict. c. lxxxiv. Any shares previously authorized. S. 26.
(4) Not exceeding 7%. S. 26. 5%. Court decision, 1 De G. & J. 606.
(5) Perpetuity. Court decision, 1 De G. & J. 606.
(6) Cumulative. Court decision, 1 De G. & J. 606.
(10) Prior preference shares unaffected by this issue of shares. S. 26.

130. Leeds & Thirsk Railway
(1) August 25, 1849. Court decision, 3 K. & J. 727. £375,180. B. 1850, 89.
(2) Illegally issued, but made valid under Act of 1851. Court decision, 3 K. & J. 741.

(3) To build extensions and stations. B. 1850, 89.
(4) 6%. Court decision, 3 K. & J. 727.
(6) Cumulative. Court decision, 3 K. & J. 723.
(10) Preference dividends payable out of profits. Court decision, 3 K. & J. 723. These shares second preference shares. Court decision, 3 K. & J. 723.

131. Leeds & Thirsk Railway
(1) August 25, 1849. Court decision, 3 K. & J. 727. £450,000. B. 1850, 90.
(2) June 26, 1849, 12 & 13 Vict. c. xxvii. £450,000. S. 2.
(3) To complete works. S. 2.
(4) & (5) Not exceeding 7%. S. 2. 6% for three years and 5% thereafter in perpetuity. Court decision, 3 K. & J. 723.
(6) Cumulative. Court decision, 3 K. & J. 723.
(10) Preference dividends payable out of profits. Court decision, 3 K. & J. 723. Company could attach to these shares such provisions as it saw fit, except rate of dividend was limited and priority of existing preference shares could not be affected. S. 2 and S. 3. These shares third preference shares. Court decision, 3 K. & J. 723.

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